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Court File No.: T-347-22

FEDERAL COURT

BETWEEN:

CANADIAN CONSTITUTION FOUNDATION

Moving Party / Applicant

– and –

ATTORNEY GENERAL OF CANADA

Responding Party / Respondent

Application for Judicial Review under Sections 18 and 18.1 of the
Federal Courts Act, R.S.C. 1985, c. F-7.

**MOTION RECORD OF THE MOVING PARTY / APPLICANT, CANADIAN
CONSTITUTION FOUNDATION**

Re: Rule 317 and Section 39 of the CEA

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FEDERAL COURT

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CANADIAN CONSTITUTION FOUNDATION

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Federal Courts Act, R.S.C. 1985, c. F-7.

AMENDED NOTICE OF MOTION

TAKE NOTICE THAT the Moving Party, the Canadian Constitution Foundation will make a motion to the Court under Rule 359 of the *Federal Courts Rules*, SOR/98-106.

THE MOTION IS FOR:

1. A declaration that the Responding Party, the Attorney General of Canada, has delivered an an incomplete record in response to the Moving Party’s Rule 317 Request, violated section 39 of the *Canada Evidence Act*, RSC 1985, c. C-5, by failing to include list in the Schedule to the Certificate of Janice Charette, dated March 31, 2022 (“First Section 39 Certificate”), the following items:
 - a. The Minutes of the meetings of the Incident Response Group on February 10, 12, 13, 2022;

- b. The Minutes of the meeting of the Governor in Council (“Federal Cabinet”) on February 13, 2022; and
 - c. Electronic records such as, without limitation, emails, texts and other electronic correspondence “reflecting communications or discussions between ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy” (section 39(2)(d) of the *Canada Evidence Act*).
2. An order directing the Responding Party ~~to amend the First Section 39 Certificate (“Amended First Section 39 Certificate”)~~ to ~~include~~ deliver the three sets of items set out at paragraphs 1a, 1b, and 1c above pursuant to Rule 318(1).
3. An order pursuant to Rules 151 and 152, and/or the plenary powers of this Honourable Court under the common law, its status as a “court” under s. 101 of the *Constitution Act, 1867* and/or the unwritten constitutional principle of the rule of law, directing the Responding Party to provide the items listed in the Schedule to the Certificate of Janice Charette, dated March 31, 2022 (“First Section 39 Certificate”), and/or any amended First Section 39 Certificate in relation to the items referenced in paragraphs 1a, 1b and 1c above, the Amended First Section 39 Certificate on a counsel-only basis to the Moving Party once an undertaking satisfying the conditions set out in Rule 152(2)(b) has been provided.
4. In the event that this Honourable Court grants the Motion of April 1, 2022 brought by the Moving Party under Rule 75 granting leave to file an Amended Notice of Application for Judicial Review, and under Rule 317 directing the Responding Party to provide the Record of materials before the Governor in Council in respect of the *Proclamation Revoking the Declaration of a Public Order Emergency*, SOR/2022-26 (“*Revocation Proclamation*”), which must include minutes of the meetings of the Incident Response Group on February 16, 17, 18, 19, 20, 21, 22 and 23, and any Cabinet meetings after the promulgation of the *Emergency Proclamation* and before the promulgation of the *Revocation Proclamation*, and in anticipation that the Clerk of the Privy Council will issue a certificate pursuant to section 39 of the *Canada Evidence Act* in relation to these materials (“Second Section 39 Certificate”), an order pursuant to Rules 151 and 152, and/or the plenary powers of this Honourable Court under the common law, its status as a “court” under s. 101 of the *Constitution Act, 1867* and/or the unwritten constitutional principle of the rule of law,

directing the Responding Party to provide the items listed in the Second Section 39 Certificate on a counsel-only basis to the Moving Party once an undertaking satisfying the conditions set out in Rule 152(2)(b) has been provided.

5. Such further and other relief as the Moving Party may request and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

1. On February 23, 2022, the Moving Party issued a Notice of Application for Judicial Review, T-347-22 in respect of the *Proclamation Declaring a Public Order Emergency*, SOR/2022-20 (“*Emergency Proclamation*”), made pursuant to section 17(1) of the *Emergencies Act*, RSC 1985, c 22 4th Supp.; (b) the *Emergency Measures Regulations*, P.C. 2022-107, SOR/2022-21 (“*Emergency Measures*”), made pursuant to section 19(1) of the *Emergencies Act*; and (c) the *Emergency Economic Measures Order*, P.C. 2022-108, SOR/2022-22 (“*Economic Measures*”), made pursuant to section 19(1) of the *Emergencies Act*.
2. On February 23, 2022, the *Emergency Proclamation* was revoked by the *Revocation Proclamation*, pursuant to section 22 of the *Emergencies Act*. Pursuant to section 26(2) of the *Emergencies Act*, the *Emergency Measures* and *Economic Measures* expired as a direct consequence of the *Revocation Proclamation*, also on February 23, 2022.
3. On March 31, 2022, Ms. Janice Charette issued the First Section 39 Certificate. The Schedule to the First Section 39 Certificate lists the following materials, which were before the Federal Cabinet when it made the decision to promulgate the *Emergency Proclamation*, the *Emergency Measures*, and the *Economic Measures*:
 - a. three submissions dated February 2022 to the Federal Cabinet from the Honourable Marco Mendicino, Minister of Public Safety and Emergency Preparedness, one for each of the *Emergency Proclamation*, *Emergency Measures*, and *Economic Measures*, “including the signed Ministerial recommendation, a draft Order in Council regarding a proposed proclamation, a draft proclamation, and accompanying materials.”
 - b. the record recording the decision of the Federal Cabinet concerning the *Emergency Proclamation*, *Emergency Measures*, and *Economic Measures*.

4. The “Explanation pursuant to subsection 58(1) of the *Emergencies Act*” dated February 16, 2022 (“Section 58 Explanation”) states (at p. 4) that there were “robust discussions at three meetings of the Incident Response Group on February 10, 12 and 13, 2022.”
5. The Incident Response Group is a committee of Cabinet, which serves as a dedicated emergency committee to advise the Prime Minister in the event of a national crisis or during incidents elsewhere that have major implications for Canada. The membership of the Incident Response Group includes both Ministers and other officials as required.
6. In his Affidavit dated April 4, 2022 in T-306-22, T-316-22, and T-382-22, Mr. Steven Shragge (“Shragge Affidavit”), reiterated that the Incident Response Group met on February 10, 12 and 13, 2022, and also stated that Cabinet met on February 13, 2022.
7. Although the Section 58 Report and the Shragge Affidavit expressly refer to the above meetings of the Incident Response Group and Cabinet, the Responding Party has neither produced minutes of these meetings in response to the Moving Party’s Rule 317 Request nor listed these minutes in the Schedule to the First Section 39 Certificate.
8. This Honourable Court has plenary powers, under ~~both~~ the common law, its status as a “court” under s. 101 of the *Constitution Act*, and/or the unwritten constitutional principle of the rule of law, to control the integrity of its own processes as part of its core function to preserve the rule of law, including its supervisory jurisdiction under s. 18.1 of the *Federal Courts Act*. For judicial review to be effective, meaningful and fair, a court must have access to materials before the decision-maker, which can be tested in an adversarial proceeding. Without this information, there may be gaps in the evidentiary record which may leave the administrator unable to demonstrate the reasonableness of its decision or undermine the requirement that there be a reasoned explanation for an administrator’s decision. In addition, adverse inferences can be drawn against the party asserting a privilege to withhold this information from a court.
6. Pursuant to its plenary powers, this Honourable Court should order that the items listed in the ~~First Section 39 Certificate and/or the Amended First Section 39 Certificate~~ any amended First Section 39 Certificate and/or the Second Section 39 Certificate be delivered on a

counsel-only basis to the Moving Party once an undertaking satisfying the conditions set out in Rule 152(2)(b) has been provided.

9. The Moving Party brings this motion pursuant to Rules 151, 152, 317, 318 and 359 of the *Federal Courts Rules*.
10. Such further and other grounds as the Moving Party may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. First Section 39 Certificate.
2. Shragge Affidavit.
3. Section 58 Explanation, Exhibit A to the Shragge Affidavit.
4. The Written Representations of the Moving Party.
5. Such further and other evidence as the Moving Party may advise and this Honourable Court may permit.

April 8~~11~~, 2022



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FEDERAL COURT

BETWEEN:

CANADIAN CONSTITUTION FOUNDATION

Moving Party / Applicant

– and –

ATTORNEY GENERAL OF CANADA

Responding Party / Respondent

Application for Judicial Review under Sections 18 and 18.1 of the
Federal Courts Act, R.S.C. 1985, c. F-7.

**WRITTEN REPRESENTATIONS OF THE MOVING PARTY / APPLICANT,
CANADIAN CONSTITUTION FOUNDATION**

I. OVERVIEW

1. How can this Honourable Court determine the lawfulness and constitutionality of the declaration of a public order emergency and various emergency measures if the Attorney General of Canada and Clerk of the Privy Council, who participated in the decisions to take these steps, withhold the most relevant evidence and explanations? That is the fundamental question raised by this Motion.

2. Pursuant to its powers under the *Emergencies Act*, the Governor-in-Council (“cabinet”) issued the *Proclamation Declaring a Public Order Emergency* (“*Emergency Proclamation*”),

followed by the *Emergency Measures Regulations* (“*Emergency Measures*”), and the *Emergency Economic Measures Order* (“*Economic Measures*”).¹

3. The Moving Party issued a Notice of Application for Judicial Review (“*Notice*”), seeking orders declaring all three instruments unlawful under the *Emergencies Act* and declaring the *Emergency Measures* and *Economic Measures* to be unconstitutional and of no force or effect.²

4. Along with its *Notice*, the Moving Party issued a request to the Responding Party for the delivery of the Record of the materials before the cabinet when it promulgated these legal instruments.³ The Responding Party’s response (“*Response*”) listed various cabinet submissions by the Minister of Public Safety and the records of cabinet’s decisions, and stated that the Clerk of the Privy Council intended to issue a section 39 of the *CEA* (“*CEA*”).⁴ She later did.⁵

5. In order to answer the important legal questions before it, this Honourable Court must have access to a full and complete record. However, the Record is gravely deficient in two respects.

6. *First*, the Responding Party has omitted altogether the minutes of the Incident Response Group and cabinet from the *Response*. The Incident Response Group is a cabinet committee. It had a “robust discussion” of whether to issue a public order emergency on February 10, 12 and 13.⁶ The cabinet then met on February 13, 2022 and decided to issue the *Emergency Proclamation*. Yet the *Response* does not list the minutes for any of these meetings.⁷

7. *Second*, the Section 39 Certificate withholds from this Honourable Court the Minister of Public Safety’s submissions, which provided the factual and legal basis for the measures taken, as

¹ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit P – *Proclamation Declaring a Public Order Emergency*, SOR/2022-20 (“*Emergency Proclamation*”); Affidavit of Madeleine Ross dated April 22, 2022, Exhibit Q – *Emergency Measures Regulations*, P.C. 2022-107, SOR/2022-21 (“*Emergency Measures*”); Affidavit of Madeleine Ross dated April 22, 2022, Exhibit R – *Emergency Economic Measures Order*, P.C. 2022-108, SOR/2022-22 (“*Economic Measures*”).

² Notice of Application for Judicial Review.

³ Pursuant to Rule 317, *Federal Courts Rules*, SOR/98-106.

⁴ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit M – 2022 03 15 T-347-22-CCF- Response to Rule 317 Request (“*Response*”).

⁵ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit L – Department of Justice Letter to Counsel dated April 1, 2022 and Affidavit of Jeremy Adler and Section 39 Certificate (“*Section 39 Certificate*”).

⁶ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit T – February 14, 2022 Declaration of Public Order Emergency Explanation pursuant to subsection 58(1) of the *Emergencies Act* (“*Section 58 Explanation*”).

⁷ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit M – *Response*, p. 34.

well as options considered and rejected. In addition, the Section 39 Certificate shields the record of cabinet’s decisions, which may include the results of any cabinet vote.

8. As a consequence, the Record is nearly silent on the central legal question in the underlying Application for Judicial Review – whether the cabinet had reasonable grounds to believe that the blockades and Ottawa protest could not be effectively dealt with under any other law of Canada, and whether the *Emergencies Measures* and *Economic Measures* were necessary. The Record contains only a single, conclusory sentence on this point: “The ongoing Freedom Convoy 2022 has created a critical, urgent, temporary situation that is national in scope and cannot effectively be dealt with under any other law of Canada.”⁸

9. The Response has put this Honourable Court in an impossible position. To discharge its constitutional function, the Court must have before it a full record and the benefits of a fully adversarial proceeding. Without these materials and this procedure, this Court may feel “a little bit like a fig leaf”.⁹

10. Fortunately, there is a way this Court can protect its own process and vital constitutional function. This Court’s plenary power provides it with the tools “to control the integrity of its own processes”,¹⁰ and pursuant to this power, this Court should:

- a. Order the Responding Party to deliver the minutes of the Incident Response Group and cabinet; *and*
- b. Order the Responding Party to produce any items listed in the Section 39 Certificate on a counsel-only basis pursuant to a confidentiality undertaking.

II. BACKGROUND

11. On March 15, 2022, Ms. Wendy Clark, the Assistant Clerk of the Privy Council, delivered a Record to the Federal Court consisting of: Order in Council:

⁸ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit T – Section 58 Explanation, p. 13.

⁹ [*Charkaoui v. Canada \(Citizenship and Immigration\)*, 2007 SCC 9, para. 50](#) [“Charkaoui”], quoting Mr. Justice James K. Hugessen, “Watching the Watchers: Democratic Oversight”, in David Daubney et al., eds., *Terrorism, Law and Democracy: How is Canada changing following September 11?* (Montréal: Thémis, 2002), p. 386.

¹⁰ [*Canada \(National Revenue\) v. RBC Life Insurance Company*, 2013 FCA 50, para. 36](#) [“RBC Life”].

- Order directing that a Proclamation be issued, P.C. 2022-0106
- Proclamation Declaring a Public Order Emergency, SOR /2022-20
- Order in Council: Emergency Measures Regulations, P.C. 2022 -0107
- Annexed Emergency Measures Regulations SOR /202-2
- Order in Council: Emergency Economic Measures Order, P.C. 202-0108; and
- Annexed Emergency Economic Measures Order, SOR/202-22.

12. In addition, Ms. Clark stated that “The other material before the Governor in Council in making these instruments are a confidence of the Queen’s Privy Council for Canada and are being withheld on the grounds of Cabinet confidentiality”. This “other material” consists of:

- a. Three submissions dated February 2022 to the Governing in Council from the Honourable Marco Mendicino, Minister of Public Safety and Emergency Preparedness, one of each of the three proposed Orders in Council listed above, “including the signed Ministerial recommendation, a draft Order in Council regarding a proposed proclamation, a draft proclamation, and accompanying materials.”
- b. The record recording the decision of the Governor in Council concerning the Emergency Proclamation, Emergency Measures, and Economic Measures.

13. On March 31, 2022, Ms. Janice Charette issued the First Section 39 Certificate, in relation to the materials listed in the above paragraph.

14. On April 4, 2022, the Respondent stated in a letter to this Honourable Court:

We also confirm that in light of the s. 39 certificate we cannot and will not share any of the material on a counsels’ eyes only basis as suggested by counsel for the CCF. The issue of providing access to the applicant’s counsel has been resolved by the issuance of the s. 39 certificate. Section 39 is clear: a court shall refuse disclosure of the information upon certification by the Clerk. The position of the AGC is that the certificate is valid and that any disclosure of the information certified by the Clerk is barred by the statute.

III. SUBMISSIONS

15. This Honourable Court must decide two issues:

- a. Should this Court order the Responding Party to deliver the minutes of cabinet on February 13, 2022, and the Incident Response Group on February 10, 12, and 13, 2022?
- b. Should this Court order the Responding Party to deliver any items listed in the Section 39 Certificate on a counsel-only basis pursuant to a confidentiality undertaking?

ISSUE 1: Should this Honourable Court order the Responding Party to deliver the minutes of the Incident Response Group on February 10, 12, and 13, 2022 and cabinet on February 13, 2022?

16. This Honourable Court should order the Responding Party to deliver the minutes of the Incident Response Group on February 10, 12, and 13, 2022 (“IRG Minutes”) and cabinet (“Cabinet Minutes”) on February 13, 2022, for the following reasons:

- a. The record for a judicial review of a cabinet decision must include cabinet deliberations.
- b. The IRG Minutes and Cabinet Minutes are part of the Record and should have been delivered as part of the Response.
- c. Pursuant to its plenary power, this Honourable Court can order the Responding Party to deliver these minutes.

The record for a judicial review of a cabinet decision must include cabinet deliberations

17. The record in an application for judicial review of the decision of the cabinet must include cabinet deliberations. Neither the *Federal Courts Rules* nor the *Federal Courts Act* define what materials constitute the record in an application for judicial review, and as a consequence do not exclude cabinet deliberations from the scope of a Rule 317 request. It has fallen to the courts to define what constitutes the record, which they have done by reference to the purposes of judicial review of administrative action. Those purposes require that cabinet deliberations be included in the record.

18. The Supreme Court in *Vavilov* explained why the record is so important to a judicial review. *Vavilov* explained that “a court conducting a reasonableness review properly considers

both the outcome of the decision and the reasoning process that led to that outcome”.¹¹ The analysis of the reasoning process is found in the formal decision, which must be “based on an internally coherent and rational chain of analysis that is justified in relation to the facts and law that constrain the decision-maker”.¹² The formal reasons for a decision must also be read “in light of the history and context of the proceedings in which they were rendered”¹³ – i.e., the record.¹⁴ This is because the record “may explain an aspect of the decision maker’s reasoning process that is not apparent from the reasons themselves”.¹⁵

19. The record includes *inputs* into the decision-making process – that is, the “the evidence before the decision maker, the submissions of the parties, publicly available policies or guidelines that informed the decision maker’s work, and past decisions of the relevant administrative body”.¹⁶ For judicial review of cabinet decisions, this includes material that was put before cabinet, such as Ministerial submissions and draft proposals.

20. For decisions of *multi*-member bodies, the “record as a whole” also includes minutes that memorialize “debate [and] deliberations” among its members in reaching its decision.¹⁷ These *debates and deliberations* are part of the record because they are an account of the collective “reasoning process” engaged in by members of that body in reaching the decision under review. For example, as Chief Justice McLachlin explained in *Catalyst*, the debate and deliberations of an elected municipal council – a multi-member body – shed light on its reasoning process and therefore are part of the record in a judicial review of a municipal by-law adopted by that council. Since cabinet is also a multi-member body, the record on judicial review of its decisions must include minutes which memorialize the debate and deliberations among cabinet’s members, because they are evidence of the reasoning process cabinet engaged in regarding the exercise of its powers.

¹¹ [Canada \(Minister of Citizenship and Immigration\) v. Vavilov, 2019 SCC 65](#) [“*Vavilov*”], para. 87.

¹² [Vavilov, para. 85.](#)

¹³ [Vavilov, para. 94.](#)

¹⁴ [Vavilov, heading D \(in between paras. 90 and 91\).](#)

¹⁵ [Vavilov, para. 94.](#)

¹⁶ [Vavilov, para. 94.](#)

¹⁷ [Vavilov, para. 137](#), quoting from [Catalyst Paper Corp. v. North Cowichan \(District\), 2012 SCC 2, para. 29](#) [*Catalyst*].

The IRG Minutes and Cabinet Minutes are part of the Record, and should have been delivered as part of the Response

21. The IRG Minutes and Cabinet Minutes are part of the Record in the underlying Application for Judicial Review. They memorialize the debate and deliberations which were part of cabinet's reasoning process when deciding to exercise its statutory powers under the *Emergencies Act* to issue the *Emergency Proclamation*, *Emergency Measures*, and *Economic Measures*.

22. The Incident Response Group is a cabinet committee. The Prime Minister announced the creation of the Incident Response Group on August 28, 2018, and described its mandate:¹⁸

It will be a dedicated, emergency committee that will convene in the event of a national crisis or during incidents elsewhere that have major implications for Canada. The Group will bring together relevant ministers and senior government leadership to coordinate a prompt federal response and make fast, effective decisions to keep Canadians safe and secure, at home and abroad.

Similar committees are in place among the other Five Eyes Allies (Australia, New Zealand, the United Kingdom, and the United States).¹⁹ The Incident Response Group is currently listed on the Prime Minister's website as one of twelve cabinet committees or sub-committees.²⁰

23. According to the Minister of Public Safety's report to Parliament explaining the *Emergency Proclamation*, "[t]he decision to issue the declaration [of a public order emergency] was informed by an assessment of the overall national situation and *robust* discussions at three meetings of the Incident Response Group on February 10, 12 and 13, 2022".²¹ "Robust" means a vigorous discussion in which participants exchanged a variety of views. In other words, the Incident Response Group debated and deliberated over recourse to the *Emergencies Act* prior to the decision being taken by cabinet as a whole.

24. Other federal government statements confirm the central role of the Incident Response Group in cabinet's decision to trigger the *Emergencies Act*. On February 10, 2022, a PMO press release stated that the Prime Minister had convened the meeting of the Incident Response Group, which was considering "deploying all federal resources necessary to help them get the situation

¹⁸ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit AA – "Prime Minister announces changes to the Cabinet committees" (August 28, 2018).

¹⁹ *Ibid.*

²⁰ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit BB – Cabinet Committee Mandate and Membership (current as of December 3, 2021).

²¹ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit T – Section 58 Explanation (*emphasis added*).

under control”.²² The PMO press release regarding the February 12, 2022 meeting of the Incident Response Group also reported that the Prime Minister had convened the meeting, and went a step further, stating that “all options remain on the table” and “the Prime Minister and ministers discussed further immediate actions the federal government is considering, and will reconvene tomorrow”.²³ On February 13, 2022, the Prime Minister himself tweeted that he had convened the Incident Response Group again that day, and that it discussed “further actions the government can take to help end the blockades and occupations.”²⁴ The *Emergencies Act* was invoked the very next day, and all of these statements about the options the IRG was considering surely included discussion about invoking the *Act*.²⁵

25. The cabinet met on February 13, 2022, and the picture that emerges is that the Incident Response Group – a cabinet committee – reported to the full cabinet through the Prime Minister on February 13, 2022, with a recommendation to issue the *Emergency Proclamation*, and likely an account of its debates and deliberations. It is also conceivable that the Incident Response Group reviewed draft proposals for the *Emergency Measures* and *Economic Measures*, and made recommendations to cabinet as well, drawing on its own debates and deliberations. The cabinet then decided to trigger the *Emergencies Act* – perhaps after debates and deliberations of its own – on February 14, 2022.

26. Since both the cabinet and Incident Response Group were seized of the *Emergencies Act*, the IRG Minutes and Cabinet Minutes are part of the Record. In addition, the IRG Minutes are part of the Record because the Responding Party itself has put the debate and deliberations of the Incident Response Group at issue, by including in the Record of the Minister of Public Safety’s Section 58 Explanation of the *Emergency Proclamation*, which refers to the “robust discussions” of the Incident Response Group. The Responding Party cannot have it both ways – it cannot rely on the robustness of those discussions in an argument on the merits, presumably to persuade this

²² “Prime Minister Justin Trudeau convenes the Incident Response Group” (February 10, 2022).

²³ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit B – “Prime Minister Justin Trudeau convenes the Incident Response Group on the ongoing illegal blockades” (February 12, 2022).

²⁴ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit C – Prime Minister Trudeau Tweet regarding convening Incident Response Group: <https://twitter.com/JustinTrudeau/status/1493071646676201474> (February 13, 2022).

²⁵ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit N – Affidavit of Steven Shragge affirmed April 4, 2022, para. 9.

Honourable Court that a cabinet committee carefully considered whether to invoke the *Emergencies Act*, while at the same time failing to include this material in the Response.

27. Finally, the omission of the IRG and cabinet minutes is anomalous in light of what the Response does include: three sets of submissions by the Minister of Public Safety including recommendations, and the record of cabinet’s decisions on those recommendations. That is, the Response includes the material that was before cabinet and what cabinet’s ultimate decision was. However, it inexplicably leaves out what occurred in between – the debate and deliberations during which cabinet engaged in a “reasoning process” on those submissions and recommendations and arrived at its decision.

Pursuant to its plenary power, this Court can order the Responding Party to deliver the IRG and cabinet minutes

28. Pursuant to its plenary power, this Honourable Court can order the Responding Party to deliver the IRG and cabinet minutes. The plenary power was described by the Federal Court of Appeal in *RBC Life* as:²⁶

[the] power to control the integrity of its own processes is part of its core function, essential for the due administration of justice, the preservation of the rule of law and the maintenance of a proper balance of power among the legislative, executive and judicial branches of government. Without that power, any court – even a court under section 101 of the *Constitution Act, 1867* – is emasculated, and is not really a court at all.

29. The scope of the plenary power is broad. In principle, it applies to any aspect of the proceedings before this Honourable Court. The only requirement is that the issue in dispute between the parties undermine the integrity of the Federal Court’s own processes.

30. The exclusion of the IRG minutes and the cabinet minutes would undermine the integrity of the judicial review of the *Emergency Proclamation*, the *Emergency Measures*, and the *Economic Measures*. This Honourable Court must have access to a complete record to discharge its constitutional responsibility to ensure that cabinet remained within the bounds of the limited powers under the *Emergencies Act*. In *Lukács*, the Federal Court of Appeal explained why the record is integral to judicial review:²⁷

²⁶ [Canada \(National Revenue\) v. RBC Life Insurance Company](#), 2013 FCA 50 [“*RBC Life*”] para. 36.

²⁷ [Lukács v. Canada \(Transportation Agency\)](#), 2016 FCA 103, para. 6 [“*Lukács*”].

If the reviewing court does not have evidence of what the tribunal has done or relied upon, the reviewing court may not be able to detect reversible error on the part of the administrative decision-maker. In other words, an inadequate evidentiary record before the reviewing court can immunize the administrative decision-maker from review on certain grounds.

31. The only reasonable inference to be drawn from the evidence is that the Incident Response Group reported to the full cabinet, with a recommendation to issue the *Emergency Proclamation*, and very likely, the *Emergency Measures* and *Economic Measures*, after a “robust discussion”. The cabinet then decided to trigger the *Emergencies Act*. This is precisely evidence of what the cabinet and a committee of cabinet have “done or relied upon” without which this Honourable Court “may not be able to detect reversible error on the part of the administrative decision-maker” (*Lukács*).

32. *Lukács* confirmed that the plenary power extends to a Rule 318(2) objection to a Rule 317 Request and provides the Court with tools to ensure that materials that are part of the record can be produced to the applicant. The principle must also apply to the prior step of omitting materials from the Response produced under Rule 318(1), before raising any possible objection under Rule 318(2). The reason is that, in substance, the issue is the same – an incomplete record.

33. Whether the IRG Minutes and Cabinet Minutes are part of the record is antecedent to any possible legal effect of a section 39 certificate that might be issued in relation to these materials. Whatever concerns might exist regarding the confidentiality of cabinet deliberations should be addressed through the section 39 process, not by inexplicably omitting cabinet deliberations from the record in the first place. Indeed, section 39(2)(c) of the *CEA* defines cabinet confidences to include cabinet deliberations, which means the Cabinet Minutes can be the subject of a certificate. Moreover, since under section 39(3) cabinet confidences include the deliberations of cabinet committees, the IRG Minutes can also be the subject of a certificate.

ISSUE 2: Should this Honourable Court order the Responding Party to deliver any items listed in the Section 39 Certificate on a counsel-only basis pursuant to a confidentiality undertaking?

34. This Honourable Court should order the Responding Party to deliver any items listed in the Section 39 Certificate on a counsel-only basis, notwithstanding section 39 of the *CEA*, pursuant to a confidentiality undertaking, for the following reasons:

- a. The plenary power authorizes this Court to privately review the materials shielded by the Section 39 Certificate in order to exercise its supervisory jurisdiction over the federal executive.
- b. The integrity of this Court's proceedings would be undermined if it did not exercise its plenary power to review the materials shielded by the Section 39 Certificate.
- c. This Court should provide counsel-only access to this material, subject to a confidentiality undertaking, to ensure it is tested in an adversarial proceeding.

35. In its Notice of Motion, the Moving Party has requested that these orders apply not just to the Section 39 Certificate, but also to any future section 39 certificates issued in these proceedings. For example, if this Honourable Court orders the Responding Party to produce the IRG Minutes and Cabinet Minutes, it is all but certain that the Clerk of the Privy Council will amend the Section 39 Certificate ("Amended Section 39 Certificate") to cover these materials. As well, should this Court grant the Moving Party's motion for leave to amend the Notice of Application to include the *Revocation Proclamation*, then it is inevitable that the Clerk of the Privy Council will issue a fresh section 39 certificate ("Second Section 39 Certificate") in relation to these materials. If this Court accepts the Moving Party's arguments in relation to the Section 39 Certificate, it should make clear that those arguments apply with equal force in relation to the Amended Section 39 Certificate and Second Section 39 Certificate, to obviate the need for further rounds of motions and submissions.

The plenary power authorizes this Honourable Court to privately review the materials shielded by the Section 39 Certificate in order to exercise its supervisory jurisdiction over the federal executive

36. In the *Safe Third Country Agreement* decision, the Federal Court of Appeal confirmed that it could privately review materials shielded by a section 39 certificate in order to exercise its supervisory jurisdiction over the cabinet, notwithstanding section 39 of the *CEA*. It categorically rejected the position taken by Canada that it had an "absolute and unqualified right to assert" a section 39 privilege, "regardless of the consequences, even if immunization of decision-making results".²⁸ The Federal Court of Appeal proclaimed that "courts oppose the immunization of public

²⁸ [*Canada \(Citizenship and Immigration\) v. Canadian Council of Refugees*, 2021 FCA 72 \["STCA"\], para. 99.](#)

decision-making”.²⁹ The decision set out three mechanisms to “reconcile the protection of necessary interests in confidentiality with the need for effective, meaningful and fair judicial review.”³⁰

37. *First*, “[p]ublic authorities and administrative decision-makers can sometimes prepare and disclose a summary of how they went about their task, what they took into account and why they acted the way they did, providing enough information to allow for an effective and meaningful judicial review.”³¹ Any such “summary must be adequate and accurate”.³²

38. *Second*, the Court “can appoint the equivalent of an *amicus* who can receive unredacted or largely unredacted copies of privileged material and make submissions in the absence of the applicants on the challengers’ behalf in a closed hearing ... analogous to the use of a special advocate acting for the challengers in a national security judicial review”.³³

39. *Third*, “counsel for the applicants on judicial review can be permitted to receive confidential information on their undertaking to keep it confidential or a more restrictive undertaking not even to divulge it to their clients.”³⁴ The Federal Court of Appeal had twice previously approved this option, in *Lukács*³⁵ and *Vancouver Airport Authority*.³⁶

40. These three mechanisms are available even in cases where a section 39 certificate has been issued. This is not a case where the Moving Party is seeking to challenge the constitutionality of Section 39. The section was previously upheld as constitutional by the Supreme Court of Canada in *Babcock* and by the Federal Court of Appeal in *Singh*.³⁷ But in both *Babcock* and *Singh*, the materials over which cabinet privilege was asserted were separate from the decision under review. *Babcock* was a private law employment case alleging breaches of contract and fiduciary duty. The decision under review was the decision of the Treasury Board, not cabinet, to pay Toronto

²⁹ [STCA, para. 101.](#)

³⁰ [STCA, para. 101.](#)

³¹ [STCA, para. 114.](#)

³² [STCA, para. 115.](#)

³³ [STCA, para. 118.](#)

³⁴ [STCA, para. 119.](#)

³⁵ [Lukács, para. 16.](#)

³⁶ [Vancouver Airport Authority v. Commissioner of Competition, 2018 FCA 24, para. 105.](#)

³⁷ [Babcock v. Canada \(Attorney General\), 2002 SCC 57](#) [“*Babcock*”]; [Singh v. Canada \(Attorney General\), 2000 CanLII 17100 \(FCA\), \[2000\] 3 FC 185](#) [“*Singh*”].

Department of Justice lawyers more than their Vancouver counterparts. The materials over which cabinet privilege was asserted under section 39 CEA were helpful to understanding the decision under review but did not comprise the decision under review itself. *Singh* arose out of a complaint to the RCMP Public Complaints Commission alleging misconduct by the RCMP in the treatment of a group of demonstrators. The Commission sought access to cabinet confidences which were denied pursuant to two certificates issued under section 39 CEA. The proceedings were brought as an action to challenge section 39; cabinet's conduct was not at issue in the case.

41. By contrast, here the very decision under judicial review is a decision of cabinet, and the materials over which cabinet privilege is asserted are central to understanding Cabinet's decision. *Babcock* did not contemplate this scenario. *Singh* expressly left open the possibility that in a case like this one, section 39 could be rendered inapplicable, based on the general proposition that "Parliament cannot authorize the Executive to shield its own conduct from constitutional scrutiny".³⁸ This is precisely what cabinet is doing here. The cabinet has used section 39 to shut down a legal challenge to the legality and constitutionality of its own actions. There is also a reasonable apprehension of self-dealing and bias.³⁹ Unlike many cabinet decisions, which are not in reality made by the cabinet after collective deliberation, the decision here was made by full cabinet — of whom, two key decision makers included the Respondent and the Clerk of the Privy Council, who advises the cabinet. The Respondent and the Clerk of the Privy Council are the central players in the section 39 process, since the Clerk issues the certificate, and the Respondent defends it in Court. In the highly unique circumstances of this case, including the unprecedented use of emergency legislation, departure from the strict language of section 39 is warranted.

42. In addition, neither *Babcock* nor *Singh* addressed how to reconcile claims to confidentiality with the constitutionally mandated supervisory jurisdiction of the courts and enforcement of the *Charter*. They framed a choice between two absolutes: full public disclosure of cabinet confidences and placing those materials beyond the reach of the parties, the court, and the public. The three *STCA* mechanisms, which would not put cabinet confidences into the public court record,

³⁸ [Singh, para. 45](#).

³⁹ Yan Campognolo, *Behind Closed Doors: The Law and Politics of Cabinet Secrecy* (Vancouver: UBC Press, 2021), pp. 189-197.

had not been proposed. *Babcock* and *Singh* should be not read as precluding these mechanisms in this proceeding.

43. The source of this Honourable Court’s authority to deploy the three *STCA* mechanisms is its plenary power. In *Lee*, the Federal Court of Appeal explained that “the Federal Courts’ plenary powers emanate from their constitutional status as courts, not from any particular legislative provision in the *Federal Courts Act* or the *Federal Courts Rules*”, because “[t]he Federal Courts are not just ordinary agencies of government but rather part of the judicial branch within the constitutional separation of powers”.⁴⁰ *Lee* stands for the proposition that Parliament’s authority pursuant to section 101 of the *Constitution Act, 1867*, by necessary implication is a power to only create courts – that is, bodies that are not just called courts but which have the essential attributes of courts. One such attribute must be the power of a court to control the integrity of its own processes.⁴¹

44. The Federal Courts have already accepted the constitutional character of their plenary powers to preserve the integrity of their procedures in the face of statutory indications to the contrary. In *RBC Life*, the Federal Court of Appeal held it had the power “to investigate, detect and, if necessary, redress abuses of its own processes” in the face of sections 231.2(3) and 231.2(6) of the *Income Tax Act*, which on their face comprehensively regulated the Court’s power to compel third parties to produce information about tax papers.⁴² Likewise, in *Canadian Security Intelligence Services Act (CA) (Re)*, the Federal Court decided it had the authority “to review previously issued warrants where issues of candour subsequently come to the Court’s attention would insulate the [Canadian Security Intelligence] Service from the consequences of its actions”, even though sections 12 and 13 of *Canadian Security Intelligence Service Act*, which govern applications for warrants, provided no such power.⁴³ This proceeding therefore represents an

⁴⁰ [Lee v. Canada \(Correctional Service\)](#), 2017 FCA 228, para. 8.

⁴¹ In this respect, the Federal Courts is on the same legal footing as the Supreme Court, which is also a statutory court created pursuant to section 101. [Lee](#), para. 13; [Deegan v. Canada \(Attorney General\)](#), 2019 FC 960, para. 225; [The Hon. Justice David Stratas, “A Judiciary Cleaved: Superior Courts, Statutory Courts and the Illogic of Difference”](#) (2017) 68 *University of New Brunswick L.J.* 54-67, footnote 50.

Another essential attribute of a court must be judicial independence: [Felipa v. Canada \(Citizenship and Immigration\)](#), 2011 FCA 272 (per Stratas JA, dissenting).

⁴² [RBC Life](#), para. 37.

⁴³ RSC 1985, c. C-23; [Canadian Security Intelligence Services Act \(CA\) \(Re\)](#), 2020 FC 616, para. 206.

incremental step in the Federal Courts' evolving understanding of their own powers and constitutional status.

The integrity of this Court's proceedings would be undermined if it did not exercise its plenary power to review the materials shielded by the Section 39 Certificate

45. The integrity of this Honourable Court's proceedings, in discharge of its constitutional duties to provide effective, meaningful and fair judicial review and to enforce the *Charter*, would be severely undermined if it did have access to the material shielded by the Section 39 Certificate. The evidence and explanations withheld from this Honourable Court pursuant to the Section 39 Certificate are precisely those materials of greatest relevance to determining the lawfulness of the *Emergency Proclamation*, *Emergency Measures* and *Economic Measures*, and the constitutionality of the *Emergency Measures* and *Economic Measures*.

46. The central relevance of these materials flows from an examination of the legal effect of the *Emergencies Act*; the design of the Act to check the risk of abuse; the legal test for declaring a public emergency; the application of *Vavilov* to the judicial review of cabinet decisions; and the requirements of section 1 of the *Charter*.

47. The *Emergencies Act* vests the cabinet with the power to unilaterally proclaim a public order emergency, which is *de facto* a temporary constitutional amendment. The *Emergencies Act* delegates vast legislative authority to cabinet, including the power to create new criminal offences and police powers, without recourse to Parliament, advance notice, or public debate. The *Emergencies Act* also empowers the cabinet to exercise legislative authority in core areas of provincial jurisdiction, such as property and civil rights.

48. To mitigate the risk of executive overreach, the specific provisions of the *Emergencies Act* are unified by the principle of proportionality. The Act limits the cabinet's power to declare an emergency to only those situations where it is absolutely necessary, grants cabinet only the powers necessary to deal with that emergency, and limits the use of those powers for only as long as they are needed.

49. The *Emergency Proclamation* declared a "public order emergency". Section 16 defines a public order emergency as "an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency". Section 3, in turn, defines a "national emergency"

as: (a) “an urgent and critical situation of a temporary nature that seriously endangers the lives, health or safety of Canadians and is of such proportions or nature as to exceed the capacity or authority of a province to deal with it” or (b) “seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada” and (c) “cannot be effectively dealt with under any other law of Canada”. Finally, “threats to the security of Canada” are defined by the *Canadian Security Intelligence Security Act*.⁴⁴

50. Under section 17(1) of the *Emergencies Act*, the federal cabinet may declare a public order emergency only if it “believes, on reasonable grounds that a public order emergency exists and necessitates the taking of special temporary measures for dealing with the emergency”. Once a public order emergency has been declared, the cabinet can issue orders or regulations to address a public order emergency only which it “believes, on reasonable grounds, are necessary for dealing with the emergency”, under section 19(1) of the Act,

51. For the present Motion, the Moving Party proceeds on the assumption – but does *not* concede – that the standard of review of cabinet’s decisions pursuant to sections 17 and 19(1) is reasonableness. On *Vavilov*, reasonableness review requires an assessment of cabinet’s reasoning process with respect to the “governing statutory scheme ... other relevant statutory or common law... [and] the evidence before the decision maker and facts of which the decision maker may take notice”.⁴⁵ The core of the Moving Party’s case is that that cabinet did not have reasonable grounds to believe that a public order emergency existed, and/or that the *Emergencies Measures* and *Economic Measures* were necessary, because it should not have concluded that the blockades and Ottawa protest could not be effectively dealt with under any other law of Canada.

52. The reasons given by cabinet on this central point consist of a single sentence in Section 58 Explanation: “The ongoing Freedom Convoy 2022 has created a critical, urgent, temporary situation that is national in scope and cannot effectively be dealt with under any other law of Canada.”⁴⁶ This is nothing more than a “bottom-line” view of what the requirements of what the *Emergencies Act* means.⁴⁷ In *Camayo*, the Federal Court of Appeal held that such a “bottom-line”

⁴⁴ RSC 1985, c C-23, section 2.

⁴⁵ [Vavilov at para. 106](#).

⁴⁶ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit T – Section 58 Explanation, p. 13.

⁴⁷ [Canada \(Citizenship and Immigration\) v. Galindo Camayo, 2022 FCA 50](#), paras. 26 and 60 [“*Camayo*”].

view taken by the Refugee Protection Division (“RPD”) on the meaning of section 108 of the *Immigration and Refugee Protection Act*⁴⁸ was unreasonable:⁴⁹

The RPD simply stated its own view of what section 108 [of the *IRPA*] requires, without any real analysis. In broad terms, it set out the text of section 108, fastened onto the *Refugee Handbook*, and then asserted its own views of what section 108 requires, without considering the text, context and purpose of section 108. It also failed to analyze and consider the Federal Court’s jurisprudence in order to see whether its decision was legally constrained in any way. It then stated its conclusion on various issues, but did not provide a sufficient pathway of reasoning to explain how it got there.

53. *Vavilov* requires that a “decision must comport with any more specific constraints imposed by the governing legislative scheme, such as the statutory definitions, principles or formulas that prescribe the exercise of a discretion”.⁵⁰ This demands a “real analysis” (*Camayo*) of the requirements in the *Emergencies Act* that the blockades and Ottawa protest could not be effectively dealt with under any other law of Canada (sections 3 and 17(1)) and were necessary (section 19(1)).

54. A “real analysis” would have examined the existing law of Canada, which the Moving Party says was more than up to the task: the border blockades were cleared by police using existing provisions under the *Criminal Code* and provincial laws, including *Highway Traffic Act* legislation; the federal government had and exercised its existing powers to provide officers to the Ottawa Police Service (“OPS”), and to establish a joint command with the OPS and the Ontario Provincial Police to address the Ottawa protest; section 129(b) of the *Criminal Code* makes it an offence for a person, without reasonable excuse, to refuse to assist a police officer in the execution of their duty, which could apply to tow truck drivers who refuse to assist police by making their vehicles available as needed to preserve the peace; every single charge laid has been under the *Criminal Code* and existing provincial legislation, and not a single charge has been laid using the allegedly new offences created under the *Emergencies Act*; and the federal and provincial government also already had the ability to take steps to limit the financing of future illegal protests, under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*⁵¹ and section 490.8 of the *Criminal Code*.

⁴⁸ S.C. 2001, c. 27 [*“IRPA”*].

⁴⁹ [Camayo, para. 58.](#)

⁵⁰ [Vavilov, para. 108.](#)

⁵¹ S.C. 2000, c. 17.

55. The same questions arise in the *Charter* challenge to the *Emergency Measures* and *Economic Measures*, for violating sections 2(b), 2(c), 2(d), 7 and 8. A key question at the section 1 stage is whether alternative means were available to achieve the governments objectives, but that were less restrictive of *Charter* rights. This is, in substance, no different than the question to trigger the *Emergencies Act* – whether the blockades and Ottawa protest could be effectively dealt with under any other law of Canada and. The question for this Honourable Court is whether cabinet considered these alternatives in existing law.

56. The Section 58 Explanation asserts there were “robust discussions” – perhaps implying that this kind of analysis of existing legal tools was engaged in – but the Responding Party has deployed section 39 to withhold material that would enable this Honourable Court to make an independent judgment of how robust those discussions were, as the Constitution requires.

57. During the FLQ Crisis, the federal cabinet did in fact engage in “robust discussions”. At the time, the *War Measures Act* – the predecessor to the *Emergencies Act* – could only be proclaimed into force if there was “war, invasion, or insurrection, real or apprehended”.⁵² Within the cabinet, there was initially a sharp disagreement over whether there was an apprehended insurrection in Quebec, and therefore, whether the legal requirements for the *War Measures Act* had been met.⁵³ Prime Minister Pierre Trudeau opened up the discussion, and “indicated that what was required was either amendments to the *Criminal Code* or special legislation providing the right to arrest persons for their belonging to, or sharing in the aims of, the F.L.Q.” – but not that the *War Measures Act* be triggered. This was also the view of the Security Committee of cabinet, which had concluded there was no apprehended insurrection. The Hon. Jean Marchand, the political minister for Quebec, sharply disagreed, and presented unverified intelligence that the FLQ was “a state within a state” and heavily armed, and that failure to invoke the Act “meant the risk of losing Quebec”. In the end, the cabinet came around to Marchand’s view. However, it is now accepted that the cabinet overreacted in the FLQ Crisis – which paved the way for the replacement of the *War Measures Act* with the *Emergencies Act*.

58. The issuing of the *Emergency Proclamation*, and its hasty repeal a mere 10 days later by the *Revocation Proclamation*, suggests history repeated itself in 2022. It is the Moving Party’s

⁵² RSC 1970, c. W-2, section 2.

⁵³ Affidavit of Madeleine Ross dated April 22, 2022, Exhibit V – Cabinet Minutes of October 15, 1970.

theory that the material shielded by the Section 39 Certificate – as well as the IRG Minutes, the Cabinet Minutes, and the Record for the *Revocation Proclamation* – will show that doubts were raised from the very outset that the blockades and Ottawa protest did not meet the test for a national emergency under section 3 of the *Emergencies Act*. These doubts persisted even after the *Emergency Proclamation* was issued on February 14, 2022. The potential defeat of the motion confirming the *Emergency Proclamation* in the Senate, and the commencement of the underlying Application for Judicial Review, provided support to those in the Incident Response Group who doubted that the legal requirements for a public order emergency had ever existed. In order to preempt defeat in the Senate and in this Honourable Court, the *Revocation Proclamation* was issued, and the public order emergency brought to an abrupt end. Granting this motion will demonstrate whether or not this theory is correct – which is the very point of the Responding Party’s legal duty to produce the Record.

59. Withholding these minutes from this Honourable Court, while simultaneously assuring the public that some of the discussions they memorialized were “robust”, reflects the attitude – sharply criticized by Federal Court of Appeal in *Tennant* – that “L’état, c’est moi” and “trust us, we got it right”.⁵⁴ But as *Tennant* proclaimed, that view has:⁵⁵

... no place in our democracy. In our system of governance, all holders of public power, even the most powerful of them—the Governor-General, the Prime Minister, Ministers, the Cabinet, Chief Justices and puisne judges, Deputy Ministers, and so on—must obey the law. ...

Tyranny, despotism and abuse can come in many forms, sizes, and motivations: major and minor, large and small, sometimes clothed in good intentions, sometimes not. Over centuries of experience, we have learned that all are nevertheless the same: all are pernicious. Thus, we insist that all who exercise public power—no matter how lofty, no matter how important—must be subject to meaningful and fully independent review and accountability.

In the circumstances of this case, the Court should provide-counsel only access to this material, subject to a confidentiality undertaking and pursuant to its plenary powers, to ensure it is tested in an adversarial proceeding

⁵⁴ [Canada \(Citizenship and Immigration\) v. Tennant, 2018 FCA 132, para. 23](#) [“*Tennant*”].

⁵⁵ [Tennant, paras. 23 and 24](#).

60. This Court should provide counsel-only access to this material, subject to a confidentiality undertaking pursuant to Rules 151 and 152, pursuant to its plenary powers. This is not a case where a special advocate or a summary is appropriate.

61. Special advocates are a cadre of security-cleared lawyers with experience in matters involving national security confidentiality.⁵⁶ They operate under section 38 of the *CEA*, which sets out a regime which prevents the disclosure of information or documents that contain what is defined as “sensitive” or “potentially injurious” information in a proceeding without the consent of the Attorney General of Canada, or a court order. In these types of cases, the courts sometimes employ special advocates to protect the accused’s interests. Here, the Clerk of the Privy Council has asserted section 39 *cabinet* privilege, and not section 38 *national security* privilege. This Honourable Court can reasonably infer that the content over which privilege has been asserted does not relate to national security. In these circumstances, there is no need for a security-cleared special advocate with special expertise in national security to review the cabinet confidences in lieu of counsel.

62. A summary is similarly not appropriate in this case. In *STCA*, the Federal Court of Appeal recognized that in some cases, public authorities and administrative decision-makers can prepare and disclose a summary of how they went about their task, what they took into account, and why they acted the way they did. This could, in some circumstances, provide enough information to allow for an effective and meaningful judicial review.⁵⁷ The Court pointed to *Coldwater First Nation v Canada (Attorney General)*⁵⁸ as an example of a case where section 39 privilege had been asserted over cabinet confidences, and a summary of cabinet’s decision-making in the preambles to the Order-in-Council was an adequate substitute for disclosure. The Court did not review the cabinet confidences.

63. However, the legal and factual context in *Coldwater* is distinguishable. *Coldwater* was a judicial review of an *environmental* decision – cabinet’s decision to approve the Trans Mountain Pipeline Expansion Project.⁵⁹ Moreover, the summaries provided were detailed, and took the form of a detailed Crown Consultation and Accommodation Report (CCAR) – which in effect, was a

⁵⁶ [R. v. Ahmad, 2011 SCC 6, para. 48.](#)

⁵⁷ [STCA, para. 114.](#)

⁵⁸ [Coldwater First Nation v. Canada \(Attorney General\), 2020 FCA 34](#) [“Coldwater”].

⁵⁹ [Coldwater, para. 1.](#)

full account of cabinet deliberations. By contrast, this case involves the unprecedented use of emergency powers, which delegates vast legislative authority to cabinet, including in core areas of provincial jurisdiction, such as property and civil rights. A summary – which *STCA* assumed would not be the complete record – is an inadequate substitute for the full record, which is necessary for the effective judicial review of such a momentous decision.

64. In these circumstances, counsel-only access is the most appropriate mechanism. Such access is consistent with the strong presumption to maintain the essential features of the adversarial process, even where cabinet confidences are at issue. The adversarial process is central to Canadian public law. *Charkaoui* contrasted “inquisitorial systems” where “the judge takes charge of the gathering of evidence in an independent and impartial way” with “the adversarial system, which is the norm in Canada”, and which “relies on the parties – who are entitled to disclosure of the case to meet, and to full participation in open proceedings – to produce the relevant evidence. *Charkaoui* struck down the old security certificate regime under *IRPA* because it was neither fully inquisitorial (the judge did “not possess the full and independent powers to gather evidence that exist in the inquisitorial process”) nor fully adversarial (because “the named person is not given the disclosure and the right to participate in the proceedings”). This put members of this Honourable Court in an extraordinarily difficult position:⁶⁰

The result is a concern that the designated judge, despite his or her best efforts to get all the relevant evidence, may be obliged — perhaps unknowingly — to make the required decision based on only part of the relevant evidence. As Hugessen J. has noted, the adversarial system provides “the real warranty that the outcome of what we do is going to be fair and just”; without it, the judge may feel “a little bit like a fig leaf”

Charkaoui struck down the regime, because “at end of the day, one cannot be sure that the judge has been exposed to the whole factual picture” and “without disclosure and full participation throughout the process”, an individual “may not be in a position to put forward a full legal argument”.⁶¹

65. Proceeding with the underlying Application for Judicial Review without “full participation in the process” for the Moving Party would replicate the very problem that *Charkaoui* found

⁶⁰ [Charkaoui, para. 50](#), quoting Mr. Justice James K. Hugessen, “Watching the Watchers: Democratic Oversight”, in David Daubney et al., eds., *Terrorism, Law and Democracy: How is Canada changing following September 11?* (Montréal: Thémis, 2002), pp. 385, 386.

⁶¹ [Charkaoui, paras. 51, 52](#).

unconstitutional, because this Honourable Court, despite its “best efforts to get all the relevant evidence, may be obliged — perhaps unknowingly — to make the required decision based on only part of the relevant evidence”. The reason is the risk of self-dealing on the part of the Responding Party and the Clerk of the Privy Council, both participants in the decisions under review and together have deployed the Section 39 Certificate to stop the judicial review in its tracks.

66. Counsel only access has been used in the past, albeit only in the section 38 context. For example, in the Air India prosecution (*Malik*), the prosecution permitted defence counsel access to withheld material on an undertaking not to disclose it to the accused.⁶² While the Supreme Court expressed some caution in *Ahmed* that counsel-only access could “at best” strain the relationship between defence counsel and clients, and “at worst”, place lawyers in a conflict between their duty to represent the best interests of their client and their duty to honour the undertakings they have given with respect to the privileged information, this is a case involving a public interest litigant, and a challenge to the constitutionality of a piece of legislation.⁶³ The risk of such a conflict of interest is mitigated, if not entirely remote.

67. **ORDER SOUGHT**

68. The Moving Party, the Canadian Constitution Foundation, respectfully requests:

- a. A declaration that the Responding Party, the Attorney General of Canada, has delivered an incomplete record in response to the Moving Party’s Rule 317 Request, by failing to include the following items:
 - i. The IRG Minutes; and
 - ii. The Cabinet Minutes of the meeting of the Governor in Council (“Federal Cabinet”) on February 13, 2022; and
- a. An order directing the Responding Party to deliver the three sets of items set out at paragraph 55a pursuant to Rule 318(1).

⁶² [*Application under s. 83.28 of the Criminal Code \(Re\)*, 2004 SCC 42](#) [“*Malik*”].

⁶³ [*Ahmad*, para. 49](#).

- b. An order pursuant to Rules 151 and 152, and/or the plenary powers of this Honourable Court directing the Responding Party to provide the items listed in the Section 39 Certificate any amended Section 39 Certificate in relation to the items referenced in paragraph 55a, on a counsel-only basis to the Moving Party once an undertaking satisfying the conditions set out in Rule 152(2)(b) has been provided.
- c. In the event that this Honourable Court grants the Motion of April 1, 2022 brought by the Moving Party under Rule 75 granting leave to file an Amended Notice of Application for Judicial Review, and under Rule 317 directing the Responding Party to provide the Record of materials before the Governor in Council in respect of the *Revocation Proclamation*, which must include minutes of the meetings of the Incident Response Group on February 16, 17, 18, 19, 20, 21, 22 and 23, and any Cabinet meetings after the promulgation of the *Emergency Proclamation* and before the promulgation of the *Revocation Proclamation*, and in anticipation that the Clerk of the Privy Council will issue a certificate pursuant to section 39 of the *CEA* in relation to these materials (“Second Section 39 Certificate”), an order pursuant to Rules 151 and 152, and/or the plenary powers of this Honourable Court under the common law or the unwritten constitutional principle of the rule of law, directing the Responding Party to provide the items listed in the Second Section 39 Certificate on a counsel-only basis to the Moving Party once an undertaking satisfying the conditions set out in Rule 152(2)(b) has been provided.
- d. Such further and other relief as the Moving Party may request and this Honourable Court may permit.

April 22, 2022



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FEDERAL COURT

B E T W E E N :

CANADIAN CONSTITUTION FOUNDATION

Applicant

- and -

ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF MADELEINE ROSS

I, **Madeleine Ross**, of the City of Toronto, in the Province of Ontario, hereby MAKE OATH AND SAY:

1. I am an associate at Goddard & Shanmuganathan LLP where Janani Shanmuganathan is a partner. Ms. Shanmuganathan, along with Sujit Choudhry, represent the Canadian Constitution Foundation (“the CCF”) in this Application for Judicial Review. In that capacity, I have come to know the following details about this proceeding.

2. I am informed by Ms. Shanmuganathan that the following documents are relevant to the Application for Judicial Review in this matter, and they are attached as exhibits.

Composition of Cabinet

3. A copy of the announcement “[Prime Minister announces changes to the Cabinet committees](#)” is attached and marked as **Exhibit AA**.

4. A copy of the announcement “[Cabinet Committee Mandate and Membership](#)” is attached and marked as **Exhibit BB**.

Announcements of Meetings of Incident Response Group

5. A copy of the announcement “[Prime Minister Justin Trudeau convenes the Incident Response Group, dated February 10, 2022](#)” is attached and marked as **Exhibit A**.
6. A copy of the announcement “[Prime Minister Justin Trudeau convenes the Incident Response Group on the ongoing illegal blockades, dated February 12, 2022](#)” is attached and marked as **Exhibit B**.
7. A copy of [Prime Minister Justin Trudeau’s Tweet regarding convening the Incident Response Group, dated February 13, 2022](#) is attached and marked as **Exhibit C**.
8. A copy of the announcement “[Prime Minister Justin Trudeau convenes the Incident Response Group on the ongoing illegal blockades, dated February 16, 2022](#)” is attached and marked as **Exhibit D**.
9. A copy of the announcement “[Prime Minister Justin Trudeau convenes the fifth Incident Response Group meeting on the illegal blockades and occupations, dated February 17, 2022](#)” is attached and marked as **Exhibit E**.
10. A copy of the announcement “[Prime Minister Justin Trudeau convenes the sixth Incident Response Group meeting on the illegal blockades and occupations, dated February 18, 2022](#)” is attached and marked as **Exhibit F**.

11. A copy of the announcement “[Prime Minister Justin Trudeau convenes the seventh Incident Response Group meeting on the illegal blockades and occupations, dated February 19, 2022](#)” is attached and marked as **Exhibit G**.

12. A copy of the announcement “[Prime Minister Justin Trudeau convenes the eighth Incident Response Group meeting on the illegal blockades and occupations, dated February 20, 2022](#)” is attached and marked as **Exhibit H**.

13. A copy of the [Prime Minister’s itinerary for Monday, February 21, 2022](#) is attached and marked as **Exhibit I**.

14. A copy of the [Prime Minister’s itinerary for Tuesday, February 22, 2022](#) is attached and marked as **Exhibit J**.

15. A copy of the [Prime Minister’s itinerary for Wednesday, February 23, 2022](#) is attached and marked as **Exhibit K**.

Rule 317 Request and Section 39 Certificate

16. A copy of the Department of Justice Letter to Counsel dated April 1, 2022 and Affidavit of Jeremy Adler and Section 39 Certificate is attached and marked as **Exhibit L**.

17. A copy of the Department of Justice Response to Rule 317 Request dated March 15, 2022 and Section 39 Certificate is attached and marked as **Exhibit M**.

Affidavit of Steven Shragge

18. A copy of the Affidavit of Steven Shragge affirmed April 4, 2022 is attached and marked as **Exhibit N**.

Department of Justice Letter to Federal Court

19. A copy of the Department of Justice letter to Federal Court, dated April 4, 2022 is attached and marked as **Exhibit O**.

Legal Instruments issued under Emergencies Act

20. A copy of the *Proclamation Declaring a Public Order Emergency*, SOR/2022-20 is attached and marked as **Exhibit P**.

21. A copy of the *Emergency Measures Regulations*, P.C. 2022-107, SOR/2022-21 is attached and marked as **Exhibit Q**.

22. A copy of the *Emergency Economic Measures Order*, P.C. 2022-108, SOR/2022-22 is attached and marked as **Exhibit R**.

23. A copy of the *Proclamation Revoking the Declaration of a Public Order Emergency*, SOR/2022-26 is attached and marked as **Exhibit S**.

Section 58 Explanation

24. A copy of the February 14, 2022 Declaration of Public Order Emergency Explanation pursuant to subsection 58(1) of the *Emergencies Act* is attached and marked as **Exhibit T**.

FLQ Crisis

25. A copy of the *War Measures Act*, RSC 1970, c W-2 is attached and marked as **Exhibit U**.

26. A copy of Cabinet Minutes of October 15, 1970 is attached and marked as **Exhibit V**.

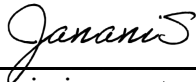
27. I make this affidavit in support of the Application for Judicial Review and for no other or improper purpose.

AFFIRMED remotely by Madeleine Ross
stated as being located at the City of Toronto
in the Province of Ontario on the 22nd
day of April, 2022 in accordance with
O. Reg 431/20, Administering Oath or
Declaration Remotely

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MADELEINE ROSS



A Commissioner, etc.

This is **EXHIBIT “AA”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "Janani S".

Janani Shanmuganathan



Prime Minister announces changes to the Cabinet committees

August 28, 2018
Ottawa, Ontario

The Prime Minister, Justin Trudeau, today announced changes to the structure and mandate of Cabinet committees to make them even more efficient and responsive to the needs of Canadians, and to reflect recent changes to the Ministry.

The new and modified Cabinet committees reflect the Government of Canada’s top priorities: delivering economic growth, diversifying international trade, strengthening the middle class, advancing reconciliation with Indigenous peoples, and fighting climate change.

The Treasury Board will assume responsibility for key delivery challenges including defence procurement and modernizing the public service pay system. As the management board of government, the Treasury Board is well-placed to lead the whole-of-government approach needed on these key files. A special sub-committee of Treasury Board will be tasked with addressing the unacceptable hardships caused by the Phoenix pay system, and implementing a modern, reliable, long-term solution. This sub-committee will engage with all implicated Ministers and impacted stakeholders including organized labour.

The Prime Minister is also creating a new Incident Response Group, similar to those in place with our Five Eyes allies. It will be a dedicated, emergency committee that will convene in the event of a national crisis or during incidents elsewhere that have major implications for Canada. The Group will bring together relevant ministers and senior government leadership to coordinate a prompt federal response and make fast, effective decisions to keep Canadians safe and secure, at home and abroad.

The new list of Cabinet committees is as follows:

- Cabinet Committee on Agenda, Results and Communications
- Cabinet Committee on Growing the Middle Class and Inclusion
- Cabinet Committee on Canada-U.S. Relations, Trade Diversification and Internal Trade
- Cabinet Committee on Reconciliation
- Cabinet Committee on Environment and Clean Growth
- Cabinet Committee on Canada in the World and Public Security
- Treasury Board
- Ad Hoc Committee on the 2018 B.C. Wildfires

Quote

“Cabinet committees play a vital role in delivering the Government’s agenda and turning government priorities into concrete results for Canadians. Today’s changes will make our Cabinet committees even more efficient and agile, and ensure we continue to deliver on our promises to Canadians as effectively as possible.”
— *The Rt. Hon. Justin Trudeau, Prime Minister of Canada*

Quick Facts

- The following changes have been made to the structure of Cabinet committees:
 - The Cabinet Committee on Agenda, Results and Communications’ mandate has been expanded include addressing issues related to advancing the Government’s agenda and all aspects of Parliamentary business. This work would have previously been addressed by the Cabinet Committee on Open Transparent Government and Parliament.
 - The Cabinet Committee on Growing the Middle Class has merged with the Cabinet Committee on Diversity and Inclusion, and has been re-named the Cabinet Committee on Growing the Middle Class and Inclusion.
 - The Cabinet Committee on Canada-United States Relations has been re-named the Cabinet Committee on Canada-U.S. Relations, Trade Diversification and Internal Trade, and its mandate has been expanded to focus on fostering strong relations between Canada and the United States and advancing issues of mutual interests, while exploring opportunities related to trade diversification and internal trade.
 - A new Cabinet Committee on Reconciliation has been formed to strengthen the relationship with Indigenous peoples and advance the commitment to a renewed nation-to-nation, Inuit-Crown, and government-to-government relationship with First Nations, Inuit and the Métis Nation based on recognition of rights, respect, co-operation, and partnership. This committee will build on the work previously undertaken by the Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples.
 - The Cabinet Committee on Environment, Climate Change and Energy has been renamed the Cabinet Committee on Environment and Clean Growth.
 - The Cabinet Committee on Canada in the World and Public Security has incorporated policy items from the Cabinet Committee on Intelligence and Emergency Management, while the new Incident Response Group has been created to address public emergencies and national security incidents as they arise in order to protect Canadians’ safety and security, both at home and abroad.
 - The Treasury Board – as the management board of government – will actively assume responsibility for the issues previously addressed by the Cabinet Committee on Defence Procurement and the Working Group of Ministers on Achieving Steady State for the Pay System, namely defence procurement and modernizing the pay system.
- The membership of the various committees, including some Chair and Vice-Chair positions, has been adjusted to benefit from ministerial experience and availability.

Associated Links

- [Cabinet Committee Mandate and Membership](#)
- [Prime Minister releases new ministerial mandate letters](#)



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Foreign Policy CAN Retweeted

Embassy of Canada US
@CanEmbUSA

Home sweet home! 🏡 These 40 bison made it from @ElkIslandNP to #Alaska safe and sound, where they will start a new herd on their ancestral land and help ensure the survival of their species. Another great example of 🇨🇦 and 🇺🇸 working together to help our planet. #EarthDay <https://twitter.com/ElkIslandNP/status/1517562554423386113>

55m

Health Canada and PHAC
@GovCanHealth

First Nations, Inuit, and Métis peoples are uniquely sensitive to the health impacts of #ClimateChange, and are leaders in climate change adaptation.

Read more about our new report on climate change and health: ow.ly/hoSY50lazUQ

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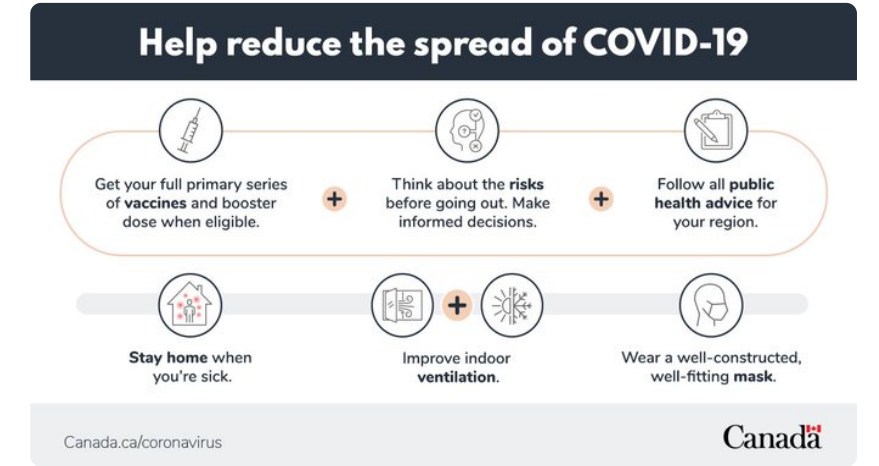


3m

Dr. Theresa Tam
@CPHO_Canada

Replying to @CPHO_Canada

4/4 Despite some uncertainty ahead for #COVID19 & other respiratory virus trends, incl. #influenza (1 now!), we can prepare/protect ourselves & reduce spread by keeping ALL vaccinations up-to-date + using #VaccinePlus personal precautions ➡: canada.ca/en/public-heal...



3m

Dr. Theresa Tam
@CPHO_Canada

Replying to @CPHO_Canada

3/4 Similarly, wastewater signals are elevated in many areas of the country, however there is considerable variability from testing sites across the country.

3m

Dr. Theresa Tam
@CPHO_Canada

Replying to @CPHO_Canada

2/4 Though reporting frequency/intervals vary, the latest 7-day avgs (ranging 7-days ending April 16-21 across

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Janani Shanmuganathan



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Prime Minister Justin Trudeau convenes the Incident Response Group

February 10, 2022
Ottawa, Ontario

Today, Prime Minister Justin Trudeau convened the Incident Response Group on the ongoing illegal blockades taking place across the country that are threatening trade, jobs, the economy, and our communities. He was joined by ministers and senior officials who are actively engaged and working closely with provincial and municipal governments, and who are assessing the requirements and deploying all federal resources necessary to help them get the situation under control.

The Prime Minister, ministers, and officials emphasized their serious concern with the illegal blockades and occupations, and their determination to see them end quickly. The group discussed the significant federal support that the RCMP is providing to law enforcement partners both in Ontario and across Canada.

Ministers and officials updated the Prime Minister on their continued engagement efforts with their provincial and municipal counterparts. In particular, they discussed their effort to work with the Government of Ontario to restore access to the Ambassador Bridge and other ports of entry, which are vital trade corridors and where the illegal blockades are resulting in real harm to jobs and our economies on both sides of the border. Ministers and officials have also been in close contact with representatives and officials from the United States of America to align efforts to resolve this situation. The Prime Minister discussed his recent conversation with Premier Ford. The group committed to continue providing federal resources to support enforcement efforts in Ottawa where the occupation has significantly disrupted local residents’ lives, impacting businesses and families with harassment, threats of violence, and vandalism. They reiterated that the federal government has and will continue to respond to all requests for appropriate support and resources.

The Prime Minister and ministers will continue to work closely with all orders of government and local authorities to respond with whatever it takes to help provinces and municipalities end the blockades and bring the situation under control. The government’s top priority remains keeping people and communities safe, and defending jobs, trade, and our economy.



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Prime Minister Justin Trudeau convenes the Incident Response Group on the ongoing illegal blockades

February 12, 2022
Ottawa, Ontario

Today, Prime Minister Justin Trudeau convened a meeting of the Incident Response Group, where he was joined by ministers and senior officials working to help provinces and municipalities get the situation under control and end the ongoing illegal blockades and occupations taking place across the country.

Ministers and officials updated the Prime Minister on the work underway with their provincial and municipal counterparts to end these blockades, including building on the Ontario government’s announcement of stiffer fines and penalties. They committed to continue providing all appropriate available federal resources to protect public order and keep people and communities safe.

The group was briefed on the law enforcement action in Windsor, Ontario, led by the Ontario Provincial Police (OPP) with support from other police forces – including significant support from the RCMP. They emphasized the very real economic harm facing Canada as each hour passes where these illegal blockades remain unresolved. They reiterated their unwavering commitment to defend jobs, trade, and the economy.

The Prime Minister and ministers were briefed by the RCMP on their efforts to secure ports of entry in Coutts, Alberta, and Emerson, Manitoba, and prevent further blockades from emerging, working with local police in these jurisdictions.

Ministers and officials also updated the Prime Minister on their outreach to industry officials, as well as those responsible for critical infrastructure such as airports, ports, and railways, to ensure that they have the resources in place to safeguard against disruptions and further blockades. The Prime Minister stressed that border crossings cannot, and will not, remain closed, and that all options remain on the table.

Today, the OPP, the RCMP, and the Ottawa Police Service established an enhanced Integrated Command Centre in response to the escalation of the current occupation in Ottawa. Additionally, the Prime Minister and ministers discussed further immediate actions the federal government is considering, and will reconvene tomorrow.

They emphasized the urgent need for anyone participating in the blockades to return to their communities peacefully and immediately, and that consequences for breaking the law will be increasingly severe. The government’s top priority remains to keep people and communities safe, and to protect jobs, trade, and our economy. These blockades must be brought to an end, and the federal government will continue working on every option to end them.

Associated link

- [Prime Minister Justin Trudeau convenes the Incident Response Group](#)



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This annual publication provides the

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Janani Shanmuganathan



Tweet



Justin Trudeau ✓

@JustinTrudeau

🏳️ Officiel du gouvernement - Canada



Today, I convened another Incident Response Group meeting. We covered further actions the government can take to help end the blockades and occupations. We'll keep working urgently on this – to protect jobs, public safety, our neighbourhoods, and our economy.

10:56 PM · Feb 13, 2022 · Twitter for iPhone

1,031 Retweets **538** Quote Tweets **8,695** Likes

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Janani Shanmuganathan



Prime Minister Justin Trudeau convenes the Incident Response Group on the ongoing illegal blockades

February 16, 2022
Ottawa, Ontario

Today, Prime Minister Justin Trudeau convened a fourth meeting of the Incident Response Group to discuss the public order emergency the government declared under the *Emergencies Act*, and how it continues to help address the ongoing illegal blockades and occupations that are hurting Canadians across the country. He was joined by ministers and senior officials focused on evaluating actions being taken to end the illegal occupations and restore public safety.

The Prime Minister and ministers emphasized the importance of ensuring the measures continue to be targeted, temporary, proportional to the threats posed to Canadians, and compliant with the *Canadian Charter of Rights and Freedoms*.

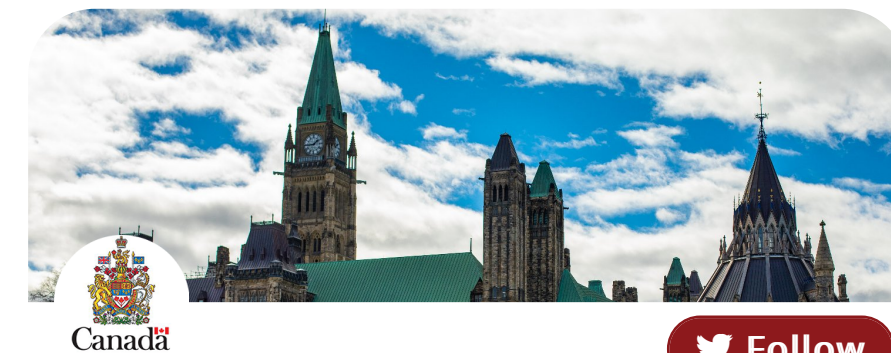
The Prime Minister and ministers discussed the role the emergency measures will play in strengthening and supporting law enforcement across the country, as well as restoring confidence, safeguarding institutions, and protecting the safety of everyone in Canada after almost three weeks of illegal blockades. The group discussed the implementation of finance-related measures under the *Emergency Economic Measures Order* to provide stricter oversight of foreign funds, identify accounts suspected to be involved in criminal activity, and provide authority for all orders of government to share relevant information with financial institutions.

The Prime Minister and ministers were briefed on the work of the Canada Border Services Agency, Royal Canadian Mounted Police (RCMP), and Ontario Provincial Police (OPP) who, together with other law enforcement agencies, including the Windsor Police Service, have brought a safe and successful resolution to the blockade of key ports of entry, which involved arrests and weapon seizures. This includes three of the most important border crossings in Canada, including the Ambassador Bridge in Windsor, Ontario, the port of entry at Coutts, Alberta, and the Pacific Highway border crossing south of Surrey, British Columbia, which are now open to trade and travel. The Prime Minister and ministers were also briefed on the clearing earlier today of the port of entry in Emerson, Manitoba.

The Prime Minister and ministers were updated on the latest situation facing Ottawa, and local enforcement efforts to end the illegal occupation of downtown. The group was briefed on the collaboration of the joint RCMP, OPP, and Ottawa Police Service enhanced Integrated Command Centre. They also discussed the importance of preventing further blockades from emerging in other communities, and committed to continue providing all appropriate available federal resources to provinces, municipalities, and law enforcement agencies to protect public order and keep people and communities safe.

Associated links

- [Federal government declares a public order emergency under the *Emergencies Act* to end disruptions, blockades, and the occupation of the city of Ottawa](#)
- [Canada invokes the *Emergencies Act* to limit funding of illegal blockades and restore public order](#)
- [Prime Minister Justin Trudeau convenes the Incident Response Group](#)
- [Prime Minister Justin Trudeau convenes the Incident Response Group on the ongoing illegal blockades](#)



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Janani Shanmuganathan



Prime Minister Justin Trudeau convenes the fifth Incident Response Group meeting on the illegal blockades and occupations

February 17, 2022
Ottawa, Ontario

Today, Prime Minister Justin Trudeau convened the fifth meeting of the Incident Response Group to discuss the public order emergency the government declared under the *Emergencies Act*. Joined by ministers and senior officials, he reiterated that the government’s priority is to end these illegal blockades and occupations across the country and to restore peace, order, and good government.

The group was provided with an update on the progress in implementing the emergency orders made under the *Emergencies Act*, including finance-related measures under the *Emergency Economic Measures Order*. Personal and corporate accounts suspected to be involved in criminal activity have been frozen and authority is being provided for all orders of government to share relevant information with financial institutions. This includes increased oversight of monies being raised in Canada and abroad via online fundraising platforms.

The group was briefed on the situation in Ottawa, where the Ottawa Police Service, Royal Canadian Mounted Police, Ontario Provincial Police, and other collaborating police forces now have the additional tools and resources they need to bring a safe end to the occupation.

The group discussed the importance of ensuring the measures continue to be targeted, temporary, proportional to the threats posed to Canadians, and compliant with the *Canadian Charter of Rights and Freedoms*. The *Emergencies Act* was invoked to end these almost three weeks of illegal blockades and to protect families, small businesses, and the economy.

Associated links

- [Federal government declares a public order emergency under the *Emergencies Act* to end disruptions, blockades, and the occupation of the city of Ottawa](#)
- [Canada invokes the *Emergencies Act* to limit funding of illegal blockades and restore public order](#)
- [Prime Minister Justin Trudeau convenes the Incident Response Group](#)
- [Prime Minister Justin Trudeau convenes the Incident Response Group on the ongoing illegal blockades](#)
- [Prime Minister Justin Trudeau convenes the Incident Response Group on the ongoing illegal blockades](#)



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Janani Shanmuganathan



Prime Minister Justin Trudeau convenes the sixth Incident Response Group meeting on the illegal blockades and occupations

February 18, 2022
Ottawa, Ontario

Today, Prime Minister Justin Trudeau convened the sixth meeting of the Incident Response Group where ministers and senior officials provided updates on the progress being made under the *Emergencies Act* to end the illegal blockades and occupations that started last month.

The group was briefed on the ongoing police enforcement efforts in Ottawa where the Royal Canadian Mounted Police, the Ottawa Police Service (OPS), Ontario Provincial Police, and other law enforcement agencies from across the country have moved into the downtown core. As a result of the enforcement actions, some protesters and people are leaving the area.

The group were briefed on the comments made this afternoon by the Acting Chief of OPS who stated that the federal *Emergencies Act* along with provincial and city emergencies declarations gave police the tools to use new and existing powers to be able to properly deal with the demonstration to ultimately bring it to an end. The group noted the situation in Ottawa resulted in the unprecedented cancellation of today's sitting of the House of Commons and the extension of the adjournment period of the Senate of Canada until February 21 due to the ongoing enforcement operations.

The group was provided with an update on the progress in implementing finance-related measures under the *Emergency Economic Measures Order*. Financial Services providers have frozen several accounts. Additionally, FINTRAC's pre-registration process is ongoing as it responds to several dozen inquiries received from small and medium-sized banks on the impact of the *Emergencies Act* orders.

The group was briefed on the work by other federal agencies involved as well as efforts underway in other sites across the country to avoid any further blockades. They reconfirmed the ultimate goal is to bring a safe end to these illegal blockades and occupations across the country and see order restored. They were reassured the use of temporary powers being exercised under the *Emergencies Act* is being done responsibly and proportionately.

Associated links

- [Prime Minister Justin Trudeau convenes the fifth Incident Response Group meeting on the illegal blockades and occupations](#)
- [Remarks by the Deputy Prime Minister and Minister of Finance regarding the *Emergencies Act* and the Trans Mountain Expansion Project](#)
- [Federal government declares a public order emergency under the *Emergencies Act* to end disruptions, blockades, and the occupation of the city of Ottawa](#)
- [Canada invokes the *Emergencies Act* to limit funding of illegal blockades and restore public order](#)



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Janani Shanmuganathan



Prime Minister Justin Trudeau convenes the seventh Incident Response Group meeting on the illegal blockades and occupations

February 19, 2022
Ottawa, Ontario

Today, Prime Minister Justin Trudeau convened the seventh meeting of the Incident Response Group where ministers and senior officials provided updates on the current situation and an assessment of the progress being made under the *Emergency Measures Regulations* and the *Emergency Economic Measures Order* under the *Emergencies Act*. It was reemphasized that the scope of the measures will be time-limited, as well as reasonable and proportionate to the threats they are meant to address.

The group acknowledged the important work of Parliamentarians in the House of Commons as it resumed debate today on the government’s decision to invoke the *Emergencies Act* as significant enforcement actions were taking place in front of Parliament Hill.

The group was briefed on the ongoing efforts by police in Ottawa, where law enforcement agencies from across Canada have worked together using a strong and measured approach to restore order in the city’s downtown core. They recognized the efforts of the police forces, who have worked around-the-clock to end the occupation. Their work has resulted in at least 170 arrests, several charged and dozens of vehicles being towed since yesterday, including some blockades being removed.

The group discussed the announcement earlier today of an investment of up to \$20 million to provide non-repayable contributions to Ottawa businesses who have suffered losses due to the illegal blockades and occupations. They noted the significant costs to Canadians caused by these illegal blockades – from policing costs to disruption of our supply chains due to blockades at ports of entry. They were also provided with an update on the progress in implementing finance-related measures under the *Emergency Economic Measures Order*. It includes the freezing of 113 financial products, the disclosure of 47 entities, 251 Bitcoin addresses have been shared with virtual currency exchangers, and one financial institution proactively freezing the account of a payment processor to a value of \$3.8 million.

The group was briefed on the work being done by other federal government organizations, as well as efforts underway across the country to avoid further blockades, including at the Pacific Highway border crossing in British Columbia and at Prescott, Ontario. They reconfirmed the goal to bring a safe end to these illegal blockades and occupations and see order restored as soon as possible to ensure the safety of Canadians and an end to the economic disruptions.

The Prime Minister and ministers were also briefed on the latest intelligence assessment in relation to the situation in and around Ukraine by General Wayne Eyre, the Chief of the Defence Staff, and on the delivery of Canada’s lethal military aid that arrived today in Ukraine. They also noted the G7 Foreign Ministers’ statement today that called on Russia to choose the path of diplomacy, to de-escalate tensions, to substantively withdraw military forces from the proximity of Ukraine’s borders and to fully abide by international commitments. They emphasized that any further military incursion into Ukraine would have severe costs and consequences, including through coordinated sanctions.

Associated links

- [Prime Minister Justin Trudeau convenes the sixth Incident Response Group meeting on the illegal blockades and occupations](#)
- [Government of Canada invests up to \\$20 million to support downtown Ottawa businesses impacted by demonstrations](#)
- [Statement by G7 Foreign Ministers on Russia and Ukraine](#)
- [Federal government declares a public order emergency under the *Emergencies Act* to end disruptions, blockades, and the occupation of the city of Ottawa](#)
- [Canada invokes the *Emergencies Act* to limit funding of illegal blockades and restore public order](#)



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[#ON](#), [#QC](#) and [#BC](#) will likely see the highest price increases.

Through the end of this year, you’ll start to see prices slow gradually from the highs we saw in 2021, then rising

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Janani Shanmuganathan



Prime Minister Justin Trudeau convenes the eighth Incident Response Group meeting on the illegal blockades and occupations

February 20, 2022
Ottawa, Ontario

Today, Prime Minister Justin Trudeau convened the eighth meeting of the Incident Response Group where ministers and senior officials provided updates on the current situation and an assessment of the progress being made.

The group was briefed on the ongoing efforts by police in Ottawa, where law enforcement agencies from across Canada have worked together to restore order in the Parliament Precinct and the city’s downtown core. The group discussed the methodical and complex law enforcement effort that was carried out involving the Royal Canadian Mounted Police, the Ontario Provincial Police, and the Ottawa Police Service.

The group acknowledged the comments from the police today highlighting that this operation in Ottawa directly benefitted from the *Emergencies Act*, noting that provisions of the Act have allowed them to maintain the perimeter, restrict travel and ensure that they continue to restrict financial support and other assistance to protesters. Over the past few days, there have been close to 200 arrests, 389 criminal charges have been laid and a total of 76 vehicles were towed. The job is not done yet and work is expected to continue to bring an end to the illegal blockades and occupations.

The group was briefed on the law enforcement actions being taken elsewhere in Canada to avoid further blockades and protect jobs and the economy. They reconfirmed the goal to see order restored as soon as possible to ensure the safety of Canadians, as well as to continue to assess the use of the *Emergencies Act* to ensure that, as intended, it is time limited, reasonable, and proportionate to the threats it is meant to address.

Associated links

- [Prime Minister Justin Trudeau convenes the seventh Incident Response Group meeting on the illegal blockades and occupations](#)
- [Blockades news](#)
- [Canada invokes the *Emergencies Act* to limit funding of illegal blockades and restore public order](#)
- [Federal government declares a public order emergency under the *Emergencies Act* to end disruptions, blockades, and the occupation of the city of Ottawa](#)



Prime Minister of Canada  [@CanadianPM](#) [Follow](#)

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Replying to @CMHC_ca

Be sure to look out for our Housing Supply Report next week for insights into [#housing](#) supply in Canada and how it could affect affordability.

  20s

**CMHC** 
@CMHC_ca

Replying to @CMHC_ca

Want to get more insights into the future of the Canadian [#HousingMarket](#)? Check out our 2022 Housing Market Outlook and find out what we’re predicting for your area:

[Embed](#) [View on Twitter](#)

This is **EXHIBIT “I”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "Janani S", positioned above a horizontal line.

Janani Shanmuganathan



Prime Minister's itinerary for Monday, February 21, 2022

February 21, 2022
Ottawa, Ontario

Note: All times local

National Capital Region, Canada

Private meetings

11:00 a.m. The Prime Minister will deliver remarks and hold a media availability. Deputy Prime Minister and Minister of Finance Chrystia Freeland, Minister of Justice and Attorney General of Canada David Lametti, Minister of Public Safety Marco E. L. Mendicino and President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness Bill Blair will be in attendance.

Room 200
Sir John A. Macdonald Building
144 Wellington Street

Notes for media:

- Open coverage
- Participation in the question and answer portion of this event is for accredited members of the Parliamentary Press Gallery only. Media who are not members of the Parliamentary Press Gallery may contact pressres2@parl.gc.ca for temporary access.
- A teleconference line is also available for listening to the event.
- Participant dial-in numbers:
Local: 613-954-9003
Toll-free: 1-866-206-0153
Pass code: 7144850#

2:00 p.m. The Prime Minister will attend Question Period.

The Prime Minister will chair a meeting of the Incident Response Group on the illegal blockades.



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20s



CMHC 
@CMHC_ca



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This is **EXHIBIT “J”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "Janani S", positioned above a horizontal line.

Janani Shanmuganathan



Prime Minister's itinerary for Tuesday, February 22, 2022

February 22, 2022
Ottawa, Ontario

Note: All times local

National Capital Region, Canada

Private meetings

The Prime Minister will chair a meeting of the Incident Response Group on the illegal blockades and the situation in Ukraine.

5:00 p.m. The Prime Minister will deliver remarks and hold a media availability on the situation in Ukraine with Deputy Prime Minister and Minister of Finance Chrystia Freeland, Minister of National Defence Anita Anand, and Minister of Foreign Affairs Mélanie Joly.

Room 100
Sir John A. Macdonald Building
144 Wellington Street

Notes for media:

- Open coverage
- Participation in the question and answer portion of this event is for accredited members of the Parliamentary Press Gallery only. Media who are not members of the Parliamentary Press Gallery may contact pressres2@parl.gc.ca for temporary access.
- Journalists can dial in to listen and ask questions.
- Participant dial-in numbers:
Local: 613-954-9003
Toll-free: 1-866-206-0153
Pass code: 4246779#



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Prime Minister of Canada ✓

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@CMHC_ca



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CMHC ✓
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Replying to @CMHC_ca

Want to get more insights into the future of the Canadian [#HousingMarket](#)? Check out our 2022 Housing Market Outlook and Market Outlook Report.

[Embed](#)

[View on Twitter](#)



This is **EXHIBIT “K”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "Janani S", positioned above a horizontal line.

Janani Shanmuganathan



Prime Minister's itinerary for Wednesday, February 23, 2022

February 23, 2022
Ottawa, Ontario

Note: All times local

National Capital Region, Canada

Private meetings

The Prime Minister will chair a meeting of the Incident Response Group on the illegal blockades and the situation in Ukraine.

The Prime Minister will attend and deliver remarks at the Ukrainian Canadian Congress board meeting.

4:00 p.m. The Prime Minister will deliver remarks and hold a media availability. Deputy Prime Minister and Minister of Finance Chrystia Freeland, Minister of Justice and Attorney General of Canada David Lametti, Minister of Public Safety Marco E. L. Mendicino, and President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness Bill Blair will be in attendance.

Room 200
Sir John A. Macdonald Building
144 Wellington Street

Notes for media:

- Open coverage
- Participation in the question and answer portion of this event is for accredited members of the Parliamentary Press Gallery only. Media who are not members of the Parliamentary Press Gallery may contact pressres2@parl.gc.ca for temporary access.
- A teleconference line is also available for listening to the event.
- Participant dial-in numbers:
Local: 613-954-9003
Toll-free: 1-866-206-0153
Pass code: 1652428#



Canada

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Prime Minister of Canada

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CMHC
@CMHC_ca



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Be sure to look out for our Housing Supply Report next week for insights into [#housing](#) supply in Canada and how it could affect affordability.



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This is **EXHIBIT “L”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "Janani S".

Janani Shanmuganathan



**Department of Justice
Canada**

**Ministère de la Justice
Canada**

Ontario Regional Office
National Litigation Sector
120 Adelaide Street West
Suite #400
Toronto, Ontario M5H 1T1

Région de l'Ontario
Secteur national du contentieux
120, rue Adelaide ouest, pièce 400
Toronto (Ontario) M5H 1T1

Telephone/Téléphone: (647) 256-0784
Fax /Télécopieur: (416) 954-8982
Email/Courriel: John.Provart@justice.gc.ca

Via Email

Our File Number: LEX-500081599

April 1, 2022

Janani Shanmuganathan, Partner
116 Simcoe St, Suite 100
Toronto, Ontario
M5H 4E2
Tel: 416-649-5061
Fax: 647-846-7733
janani@gslp.ca

Sujit Choudhry, Principal
1 King Street W., Suite 4800,
Toronto ON, M5H 1A1
Tel: 416 436 3679
suj@choudhry.law

Re: *Canadian Constitution Foundation v Attorney General of Canada*
Court File No: T-347-22

Please find enclosed the affidavit of Jeremy Adler, which attaches the certificate signed by the Interim Clerk of the Privy Council and Secretary to the Cabinet on March 31, 2022, concerning the application of section 39 of the *Canada Evidence Act* in relation to the above-noted litigation.

Yours truly,

John Provart
Senior Counsel
National Litigation sector

FEDERAL COURT

BETWEEN:

CANADIAN CONSTITUTION FOUNDATION

Applicant

- and -

ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT

I, Jeremy Adler, residing in the City of Ottawa, in the Province of Ontario,
declare and say as follows:

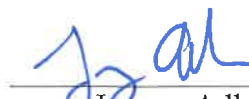
1. I am the Chief of Staff in the office of the Clerk of the Privy Council and
Secretary to the Cabinet.

2. I know Janice Charette to be the Interim Clerk of the Privy Council and Secretary to the Cabinet.

3. On the 31st day of March 2022, I witnessed Janice Charette sign the certificate attached hereto as Exhibit "A" dated the 31st day of March 2022, and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE ME at the)
City of Ottawa in the)
Province of Ontario this)
1st day of April 2022)


A Commissioner, etc.
A.50 63497W


Jeremy Adler

FEDERAL COURT

BETWEEN:

CANADIAN CONSTITUTION FOUNDATION

Applicant

- and -

ATTORNEY GENERAL OF CANADA

Respondent

This is Exhibit " A " referred
to in the declaration of

Jeremy Allen
Declared before me this 7th
day of April A.D. 20 22

[Signature] LSO 63497W
A Commissioner, etc.

Ceci est la pièce _____ à

La déclaration solennelle de

déclarée devant moi ce _____
jour de _____ 20 _____

Commissaire, etc.

CERTIFICATE

I, the undersigned, Janice Charette, residing in the City of Ottawa, in the
Province of Ontario, do certify and say:

1. I am the Interim Clerk of the Privy Council and Secretary to the Cabinet.

2. I have examined the information described in the Schedule attached hereto for the purpose of determining whether it constitutes a confidence of the Queen's Privy Council for Canada and whether it should be protected from disclosure under section 39 of the *Canada Evidence Act*, R.S.C. 1985, C-5.

3. I certify that under subsections 39(1) and (2) of the *Canada Evidence Act*, the information referred to in the said Schedule is a confidence of the Queen's Privy Council for Canada for the reasons set out in the Schedule attached hereto, and I object to the disclosure of the information.

4. I further certify that paragraph 39(4)(a) of the *Canada Evidence Act* does not apply in respect of the information as it has not been in existence for more than twenty years and that paragraph 39(4)(b) of the said Act does not apply in respect of the information in question.

5. If oral evidence were sought to be given on the content of the information the disclosure of which I have in this certificate objected to, I would object to such evidence on the same grounds as described above in relation to the information in question.

DATED AT OTTAWA, in the Province of Ontario, this 31 day of March 2022.



Janice Charette
Interim Clerk of the Privy Council
and Secretary to the Cabinet

SCHEDULE TO THE CERTIFICATE OF JANICE CHARETTE
dated 31 march , 2022, in the matter of
Canadian Constitution Foundation v Attorney General of Canada
Court File No.: T-347-22

1. Submission to the Governor in Council, February 2022, in English and in French, from the Honourable Marco Mendicino, Minister of Public Safety and Emergency Preparedness, regarding the proposed Order in Council directing that a proclamation be issued pursuant to subsection 17(1) of the *Emergencies Act*, including the signed Ministerial recommendation, a draft Order in Council regarding a proposed proclamation, a draft proclamation, and accompanying materials.

This information, including all its attachments in their entirety, which are integral parts of the document, constitutes a memorandum the purpose of which is to present proposals or recommendations to Council. Therefore, the information is within paragraph 39(2)(a) of the *Canada Evidence Act* (Act).

2. The record recording the decision of Council concerning a proclamation, February 2022, signed by Council.

This information constitutes a record recording deliberations or decisions of Council. The information is therefore within paragraph 39(2)(c) of the Act, as constituting an agenda of Council or a record recording deliberations or decisions of Council

3. Submission to the Governor in Council, February 2022, in English and in French, from the Honourable Marco Mendicino, Minister of Public Safety and Emergency Preparedness, regarding the proposed Order in Council pursuant to subsection 19(1) of the *Emergencies Act* and concerning emergency measures regulations, including the signed Ministerial recommendation, a draft Order in Council regarding proposed emergency measures regulations, draft regulations, and accompanying materials.

This information, including all its attachments in their entirety, which are integral parts of the document, constitutes a memorandum the purpose of which is to present proposals or recommendations to Council. Therefore, the information is within paragraph 39(2)(a) of the Act.

4. The record recording the decision of Council concerning emergency measures regulations, February 2022, signed by Council.

This information constitutes a record recording deliberations or decisions of Council. The information is therefore within paragraph 39(2)(c) of the Act, as constituting an agenda of Council or a record recording deliberations or decisions of Council.

5. Submission to the Governor in Council, February 2022, in English and in French, from the Honourable Marco Mendicino, Minister of Public Safety and Emergency Preparedness, regarding the proposed Order in Council pursuant to subsection 19(1) of the *Emergencies Act* and concerning an emergency economic measures order, including the signed Ministerial recommendation, a draft Order in Council regarding a proposed emergency economic measures order, a draft order, and accompanying materials.

This information, including all its attachments in their entirety, which are integral parts of the document, constitutes a memorandum the purpose of which is to present proposals or recommendations to Council. Therefore, the information is within paragraph 39(2)(a) of the Act.

6. The record recording the decision of Council concerning an emergency economic measures order, February 2022, signed by Council.

This information constitutes a record recording deliberations or decisions of Council. The information is therefore within paragraph 39(2)(c) of the Act, as constituting an agenda of Council or a record recording deliberations or decisions of Council.

This is **EXHIBIT “M”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "Janani S", positioned above a horizontal line.

Janani Shanmuganathan



Department of Justice
Canada

Ministère de la Justice
Canada

Civil Litigation Section
Ontario Regional Office
120 Adelaide Street West, Suite 400
Toronto, ON M5H 1T1

Section du contentieux des affaires civiles
Bureau régional de l'Ontario
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Fax /Télécopieur: (416) 973-4328
Email/Courriel: Shain.Widdifield@justice.gc.ca

E-FILING

Our File Number: LEX-500080226

March 15, 2022

Federal Court - Toronto
180 Queen Street West, Suite 200
Toronto, ON M5C 3L6

Dear Sir/Madam:

Re: *Canadian Constitution Foundation v Attorney General of Canada*
Court File No.: T-347-22

Please find enclosed the letter from the Assistant Clerk of the Privy Council dated March 14, 2022 responding to the Applicant's request under Rule 317 of the *Federal Courts Rules* in the above noted matter, along with the requisite number copies of the certified statutory and executive instruments made pursuant to the *Emergencies Act*.

We also enclose a description, prepared by the Counsel to the Clerk of the Privy Council, of the other material that was before the Governor in Council in making the statutory and executive instruments under review. As stated in the enclosed letter from the Assistant Clerk of the Privy Council, this other material is a confidence of the Queen's Privy Council for Canada and is being withheld on the grounds of Cabinet confidentiality.

The enclosed description demonstrates, in a manner consistent with requirements set out in the relevant case law, that the information in question constitutes a confidence of the Queen's Privy Council of Canada and would fall within the meaning of s. 39 of the *Canada Evidence Act* (CEA). The attached description provides essentially the same type of detail regarding the information that is being withheld on the grounds of Cabinet confidentiality as would a certificate made by the Clerk of the Privy Council under s. 39 of the CEA.

We understand that the Clerk of the Privy Council intends to engage s. 39 of the CEA in this matter and will make a determination under that provision at the very earliest opportunity. In the meantime, the attached description is provided for the purposes of assisting the parties in advancing the application for judicial review. Formal determinations under s. 39 of the CEA take time because they require the personal attention of the Clerk of the Privy Council, who is the most

Canada 

senior official in the federal public service and who performs this function alongside the other obligations of the office.

Yours truly,



Shain Widdifield
Counsel

Encls

c.c.: R. Jeff Anderson
Department of Justice Canada
Civil Litigation Section
50 O'Connor Street, Suite 500
Ottawa, ON K1A 0H8

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1 King Street West, Suite 4800
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Janani Shanmuganathan
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Government of Canada
Privy Council Office

Gouvernement du Canada
Bureau du Conseil privé

Ottawa, Canada
K1A 0A3

SOLICITOR-CLIENT AND
LITIGATION PRIVILEGE

March 14, 2022

Federal Court
180 Queen Street W, suite 200
Toronto, Ontario
M5V 3L6

Dear Registrar/Administrator:

**Re: Response to a request under *Federal Courts Rules*, Rule 317
Canadian Constitution Foundation v Attorney General of Canada
Court file no. T-347-22**

I write on behalf of the Governor in Council in response to the request pursuant to Rule 317 of the *Federal Courts Rules* made by the Applicant in the above-noted matter, as part of their application for judicial review of the statutory and executive instruments made pursuant to the *Emergencies Act*.

In their Notice of Application filed on February 23, 2022, the Applicant requests "certified copies of the following materials that are not in the possession of the Applicant, but are in the possession of the Respondent, to the Applicant and the Registry:

1. The record of materials before the Governor in Council in respect of the *Emergency Proclamation*.
2. The record of materials before the Governor in Council in respect of the *Emergency Measures*.
3. The record of materials before the Governor in Council in respect of the *Economic Measures*."

.../2

Rule 317 of the *Federal Courts Rules* permits an applicant to request “material relevant to an application that is in the possession of a tribunal whose order is the subject of the application”. In this matter, the Governor in Council is the tribunal whose orders are the subject of the application. The material that is relevant pursuant to Rule 317, therefore, are the records that were before the Governor in Council in making the statutory and executive instruments pursuant to the *Emergencies Act*.

As required by Rule 318 of the *Federal Courts Rules*, please find enclosed certified copies, in English and in French, of the following material that was before the Governor in Council in making the statutory and executive instruments pursuant to the *Emergencies Act*:

- Order in Council: Order directing that a Proclamation be issued, P.C. 2022-0106;
- Proclamation Declaring a Public Order Emergency, SOR/2022-20;
- Order in Council: Emergency Measures Regulations, P.C. 2022-0107;
- Annexed Emergency Measures Regulations, SOR/2022-21;
- Order in Council: Emergency Economic Measures Order, P.C. 2022-0108;
- Annexed Emergency Economic Measures Order, SOR/2022-22.

The other material before the Governor in Council in making these instruments are a confidence of the Queen’s Privy Council for Canada and are being withheld on the grounds of Cabinet confidentiality.

Yours sincerely,



Wendy Nixon
Assistant Clerk of the Privy Council

Attachments

c.c.: Sujit Choudhry
choudhry.law
1 King Street W., Suite 4800
Toronto, Ontario, M5H 1A1

.../3

Janani Shanmuganathan

Goddard & Shanmuganathan LLP
116-100 Simcoe St.
Toronto, Ontario, M5H 4E2

Mr. R. Jeffrey Anderson
Civil Litigation Section
Department of Justice Canada
50 O'Connor Street, Suite 500
Ottawa, Ontario K1A 0H8



CANADA
PRIVY COUNCIL • CONSEIL PRIVÉ

P.C. 2022-106
February 14, 2022

Whereas the Governor in Council believes, on reasonable grounds, that a public order emergency exists and necessitates the taking of special temporary measures for dealing with the emergency;

And whereas the Governor in Council has, before declaring a public order emergency and in accordance with subsection 25(1) of the *Emergencies Act*, consulted the Lieutenant Governor in Council of each province, the Commissioners of Yukon and the Northwest Territories, acting with consent of their respective Executive Councils, and the Commissioner of Nunavut;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 17(1) of the *Emergencies Act*, directs that a proclamation be issued

(a) declaring that a public order emergency exists throughout Canada and necessitates the taking of special temporary measures for dealing with the emergency;

- 2 -

(b) specifying the emergency as constituted of

(i) the continuing blockades by both persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada,

(ii) the adverse effects on the Canadian economy — recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19) — and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings,

(iii) the adverse effects resulting from the impacts of the blockades on Canada's relationship with its trading partners, including the United States, that are detrimental to the interests of Canada,

(iv) the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the risk that this breakdown will continue as blockades continue and increase in number, and

(v) the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians; and

.../3

- 3 -

(c) specifying that the special temporary measures that may be necessary for dealing with the emergency, as anticipated by the Governor in Council, are

(i) measures to regulate or prohibit any public assembly — other than lawful advocacy, protest or dissent — that may reasonably be expected to lead to a breach of the peace, or the travel to, from or within any specified area, to regulate or prohibit the use of specified property, including goods to be used with respect to a blockade, and to designate and secure protected places, including critical infrastructure,

(ii) measures to authorize or direct any person to render essential services of a type that the person is competent to provide, including services related to removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade anywhere in Canada, to relieve the impacts of the blockades on Canada's public and economic safety, including measures to identify those essential services and the persons competent to render them and to provide reasonable compensation in respect of services so rendered,

- 4 -

(iii) measures to authorize or direct any person to render essential services to relieve the impacts of the blockade, including measures to regulate or prohibit the use of property to fund or support the blockade, to require any crowdfunding platform and payment processor to report certain transactions to the Financial Transactions and Reports Analysis Centre of Canada and to require any financial service provider to determine whether they have in their possession or control property that belongs to a person who participates in the blockade,

(iv) measures to authorize the Royal Canadian Mounted Police to enforce municipal and provincial laws by means of incorporation by reference,

(v) the imposition of fines or imprisonment for contravention of any order or regulation made under section 19 of the *Emergencies Act*; and

(vi) other temporary measures authorized under section 19 of the *Emergencies Act* that are not yet known.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

A handwritten signature in red ink, appearing to be 'J. Chabot', is written over a faint red circular stamp.

INTERIM CLERK OF THE PRIVY COUNCIL—GREFFIÈRE DU CONSEIL PRIVÉ PAR INTÉRIM



Attendu que la gouverneure en conseil croit, pour des motifs raisonnables, qu'il se produit un état d'urgence justifiant en l'occurrence des mesures extraordinaires à titre temporaire;

Attendu que la gouverneure en conseil a, conformément au paragraphe 25(1) de la *Loi sur les mesures d'urgence*, consulté le lieutenant-gouverneur en conseil de chaque province, les commissaires du Yukon et des Territoires du Nord-Ouest agissant avec l'agrément de leur conseil exécutif respectif, et le commissaire du Nunavut, avant de faire la déclaration d'état d'urgence,

À ces causes, sur recommandation du ministre de la Sécurité publique et de la Protection civile et en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*, Son Excellence la Gouverneure générale en conseil ordonne que soit prise une proclamation :

- a) déclarant qu'il se produit un état d'urgence dans tout le pays justifiant en l'occurrence des mesures extraordinaires à titre temporaire;

b) décrivant l'état d'urgence comme prenant la forme suivante :

(i) les blocages continus mis en place par des personnes et véhicules à différents endroits au Canada et les menaces continues proférées en opposition aux mesures visant à mettre fin aux blocages, notamment par l'utilisation de la force, lesquels blocages ont un lien avec des activités qui visent à favoriser l'usage de la violence grave ou de menaces de violence contre des personnes ou des biens, notamment les infrastructures essentielles, dans le but d'atteindre un objectif politique ou idéologique au Canada,

(ii) les effets néfastes sur l'économie canadienne — qui se relève des effets de la pandémie de la maladie à coronavirus 2019 (COVID-19) — et les menaces envers la sécurité économique du Canada découlant des blocages d'infrastructures essentielles, notamment les axes commerciaux et les postes frontaliers internationaux,

(iii) les effets néfastes découlant des blocages sur les relations qu'entretient le Canada avec ses partenaires commerciaux, notamment les États-Unis, lesquels effets sont préjudiciables aux intérêts du Canada,

(iv) la rupture des chaînes de distribution et de la mise à disposition de ressources, de services et de denrées essentiels causée par les blocages existants et le risque que cette rupture se perpétue si les blocages continuent et augmentent en nombre,

(v) le potentiel d'augmentation du niveau d'agitation et de violence qui menaceraient davantage la sécurité des Canadiens;

c) indiquant que la gouverneure en conseil juge les mesures d'intervention ci-après nécessaires pour faire face à l'état d'urgence :

(i) des mesures pour réglementer ou interdire les assemblées publiques — autre que les activités licites de défense d'une cause, de protestation ou de manifestation d'un désaccord — dont il est raisonnable de penser qu'elles auraient pour effet de troubler la paix, les déplacements à destination, en provenance ou à l'intérieur d'une zone désignée, pour réglementer ou interdire l'utilisation de biens désignés, notamment les biens utilisés dans le cadre d'un blocage, et pour désigner et aménager des lieux protégés, notamment les infrastructures essentielles,

(ii) des mesures pour habiliter toute personne compétente à fournir des services essentiels ou lui ordonner de fournir de tels services, notamment l'enlèvement, le remorquage et l'entreposage de véhicules, d'équipement, de structures ou de tout autre objet qui font partie d'un blocage n'importe où au Canada, afin de pallier les effets des blocages sur la sécurité publique et économique du Canada, notamment des mesures pour cerner ces services essentiels et les personnes compétentes à les fournir, ainsi que le versement d'une indemnité raisonnable pour ces services,

- 4 -

(iii) des mesures pour habiliter toute personne à fournir des services essentiels ou lui ordonner de fournir de tels services afin de pallier les effets des blocages, notamment des mesures pour réglementer ou interdire l'usage de biens en vue de financer et d'appuyer les blocages, pour exiger de toute plateforme de sociofinancement et de tout fournisseur de traitement de paiement qu'il déclare certaines opérations au Centre d'analyse des opérations et déclarations financières du Canada et pour exiger de tout fournisseur de services financiers qu'il vérifie si des biens qui sont en sa possession ou sous son contrôle appartiennent à une personne qui participe à un blocage,

(iv) des mesures pour habiliter la Gendarmerie royale du Canada à appliquer les lois municipales et provinciales au moyen de l'incorporation par renvoi,

(v) en cas de contravention aux décrets ou règlements d'application de l'article 19 de la *Loi sur les mesures d'urgence*, l'imposition d'amendes ou de peines d'emprisonnement,

(vi) toute autre mesure d'intervention autorisée par l'article 19 de la *Loi sur les mesures d'urgence* qui est encore inconnue.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

A handwritten signature in red ink, appearing to be 'J. Han', is written over a faint red circular stamp.

INTERIM CLERK OF THE PRIVY COUNCIL—GREFFIÈRE DU CONSEIL PRIVÉ PAR INTÉRIM

Department of Industry.

Office of the Registrar General of
Canada,

Ottawa, March 14, 2022.

I hereby certify the within to
be a true and faithful copy of the
original Proclamation dated February
14, 2022 declaring a Public Order
Emergency.

(P.C. 2022-106)

Ministère de l'Industrie.

Bureau du registraire général du
Canada,

Ottawa, le 14 mars 2022.

Je certifie que la présente
est une copie exacte et fidèle d'une
Proclamation originale datée le 14
février 2022 déclarant une urgence
d'ordre public.



DEPUTY REGISTRAR
GENERAL OF CANADA

LA SOUS-REGISTRAIRE
GÉNÉRALE DU CANADA



Mary May Simon

C A N A D A

ELIZABETH THE SECOND, by the
Grace of God of the United Kingdom,
Canada and Her other Realms and
Territories QUEEN, Head of the
Commonwealth, Defender of the Faith.

ELIZABETH DEUX, par la Grâce de
Dieu, REINE du Royaume-Uni, du Canada
et de ses autres royaumes et
territoires, Chef du Commonwealth,
Défenseur de la Foi.

FRANÇOIS DAIGLE

DEPUTY ATTORNEY
GENERAL

LE SOUS-PROCUREUR
GÉNÉRAL

Great Seal of Canada

Grand sceau du Canada

TO ALL TO WHOM these Presents
shall come or whom the same may in
any way concern,

GREETING:

A PROCLAMATION

Whereas the Governor in Council
believes, on reasonable grounds, that
a public order emergency exists and
necessitates the taking of special
temporary measures for dealing with
the emergency;

Whereas the Governor in Council
has, before declaring a public order
emergency and in accordance with
subsection 25(1) of the *Emergencies*
Act, consulted the Lieutenant Governor
in Council of each province, the
Commissioners of Yukon and the
Northwest Territories, acting with
consent of their respective Executive
Councils, and the Commissioner of
Nunavut;

Now Know You that We, by and with
the advice of Our Privy Council for
Canada, pursuant to subsection 17(1)
of the *Emergencies Act*, do by this Our
Proclamation declare that a public
order emergency exists throughout
Canada and necessitates the taking of
special temporary measures for dealing
with the emergency;

And We do specify the emergency
as constituted of

(a) the continuing blockades by both

À TOUS CEUX à qui les présentes
parviennent ou qu'elles peuvent de
quelque manière concerner,

SALUT:

PROCLAMATION

Attendu que la gouverneure en
conseil croit, pour des motifs
raisonnables, qu'il se produit un état
d'urgence justifiant en l'occurrence
des mesures extraordinaires à titre
temporaire;

Attendu que la gouverneure en
conseil a, conformément au paragraphe
25(1) de la *Loi sur les mesures*
d'urgence, consulté le lieutenant-
gouverneur en conseil de chaque
province, les commissaires du Yukon et
des Territoires du Nord-Ouest agissant
avec l'agrément de leur conseil
exécutif respectif et le commissaire
du Nunavut avant de faire la
déclaration de l'état d'urgence,

Sachez que, sur et avec l'avis de
Notre Conseil privé pour le Canada,
Nous, en vertu du paragraphe 17(1) de
la *Loi sur les mesures d'urgence*, par
Notre présente proclamation, déclarons
qu'il se produit dans tout le pays un
état d'urgence justifiant en
l'occurrence des mesures
extraordinaires à titre temporaire;

Sachez que Nous décrivons l'état
d'urgence comme prenant la forme
suivante :

a) les blocages continus mis en

persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada,

(b) the adverse effects on the Canadian economy – recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19) – and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings,

(c) the adverse effects resulting from the impacts of the blockades on Canada's relationship with its trading partners, including the United States, that are detrimental to the interests of Canada,

(d) the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the risk that this breakdown will continue as blockades continue and increase in number, and

(e) the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians;

place par des personnes et véhicules à différents endroits au Canada et les menaces continues proférées en opposition aux mesures visant à mettre fin aux blocages, notamment par l'utilisation de la force, lesquels blocages ont un lien avec des activités qui visent à favoriser l'usage de la violence grave ou de menaces de violence contre des personnes ou des biens, notamment les infrastructures essentielles, dans le but d'atteindre un objectif politique ou idéologique au Canada,

b) les effets néfastes sur l'économie canadienne – qui se relève des effets de la pandémie de la maladie à coronavirus 2019 (COVID-19) – et les menaces envers la sécurité économique du Canada découlant des blocages d'infrastructures essentielles, notamment les axes commerciaux et les postes frontaliers internationaux,

c) les effets néfastes découlant des blocages sur les relations qu'entretient le Canada avec ses partenaires commerciaux, notamment les États-Unis, lesquels effets sont préjudiciables aux intérêts du Canada,

d) la rupture des chaînes de distribution et de la mise à disposition de ressources, de services et de denrées essentiels causée par les blocages existants et le risque que cette rupture se perpétue si les blocages continuent et augmentent en nombre,

e) le potentiel d'augmentation du niveau d'agitation et de violence qui menaceraient davantage la sécurité des Canadiens;

And We do further specify that the special temporary measures that may be necessary for dealing with the emergency, as anticipated by the Governor in Council, are

(a) measures to regulate or prohibit any public assembly – other than lawful advocacy, protest or dissent – that may reasonably be expected to lead to a breach of the peace, or the travel to, from or within any specified area, to regulate or prohibit the use of specified property, including goods to be used with respect to a blockade, and to designate and secure protected places, including critical infrastructure,

(b) measures to authorize or direct any person to render essential services of a type that the person is competent to provide, including services related to removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade anywhere in Canada, to relieve the impacts of the blockades on Canada's public and economic safety, including measures to identify those essential services and the persons competent to render them and the provision of reasonable compensation in respect of services so rendered,

(c) measures to authorize or direct any person to render essential services to relieve the impacts of the blockade, including to regulate or prohibit the

Sachez que Nous jugeons les mesures d'intervention ci-après nécessaires pour faire face à l'état d'urgence :

a) des mesures pour réglementer ou interdire les assemblées publiques – autre que les activités licites de défense d'une cause, de protestation ou de manifestation d'un désaccord – dont il est raisonnable de penser qu'elles auraient pour effet de troubler la paix, ou les déplacements à destination, en provenance ou à l'intérieur d'une zone désignée, pour réglementer ou interdire l'utilisation de biens désignés, notamment les biens utilisés dans le cadre d'un blocage, et pour désigner et aménager des lieux protégés, notamment les infrastructures essentielles,

b) des mesures pour habiliter toute personne compétente à fournir des services essentiels ou lui ordonner de fournir de tels services, notamment l'enlèvement, le remorquage et l'entreposage de véhicules, d'équipement, de structures ou de tout autre objet qui font partie d'un blocage n'importe où au Canada, afin de pallier les effets des blocages sur la sécurité publique et économique du Canada, notamment des mesures pour cerner ces services essentiels et les personnes compétentes à les fournir, ainsi que le versement d'une indemnité raisonnable pour ces services,

c) des mesures pour habiliter toute personne à fournir des services essentiels ou lui ordonner de fournir de tels services afin de pallier les

use of property to fund or support the blockade, to require any crowdfunding platform and payment processor to report certain transactions to the Financial Transactions and Reports Analysis Centre of Canada and to require any financial service provider to determine whether they have in their possession or control property that belongs to a person who participates in the blockade,

(d) measures to authorize the Royal Canadian Mounted Police to enforce municipal and provincial laws by means of incorporation by reference,

(e) the imposition of fines or imprisonment for contravention of any order or regulation made under section 19 of the *Emergencies Act*; and

(f) other temporary measures authorized under section 19 of the *Emergencies Act* that are not yet known.

effets des blocages, notamment des mesures pour réglementer ou interdire l'usage de biens en vue de financer ou d'appuyer les blocages, pour exiger de toute plateforme de sociofinancement et de tout fournisseur de traitement de paiement qu'il déclare certaines opérations au Centre d'analyse des opérations et déclarations financières du Canada et pour exiger de tout fournisseur de services financiers qu'il vérifie si des biens qui sont en sa possession ou sous son contrôle appartiennent à une personne qui participe à un blocage,

d) des mesures pour habiliter la Gendarmerie royale du Canada à appliquer les lois municipales et provinciales au moyen de l'incorporation par renvoi,

e) en cas de contravention aux décrets ou règlements pris au titre de l'article 19 de la *Loi sur les mesures d'urgence*, l'imposition d'amendes ou de peines d'emprisonnement,

f) toute autre mesure d'intervention autorisée par l'article 19 de la *Loi sur les mesures d'urgence* qui est encore inconnue.

In testimony whereof, We have caused this Our Proclamation to be published and the Great Seal of Canada to be affixed to it.

WITNESS:

Our Right Trusty and Well-beloved Mary May Simon, Chancellor and Principal Companion of Our Order of Canada, Chancellor and Commander of Our Order of Military Merit, Chancellor and Commander of Our Order of Merit of the Police Forces, Governor General and Commander-in-Chief of Canada.

At Our Government House, in Our City of Ottawa, this fourteenth day of February in the year of Our Lord two thousand and twenty-two and in the seventy-first year of Our Reign.

BY COMMAND,

Simon Kennedy

DEPUTY REGISTRAR
GENERAL OF CANADA

En foi de quoi, Nous avons fait publier Notre présente Proclamation et y avons fait apposer le grand sceau du Canada.

TÉMOIN :

Notre très fidèle et bien-aimée Mary May Simon, chancelière et compagnon principal de Notre Ordre du Canada, chancelière et commandeure de Notre Ordre du mérite militaire, chancelière et commandeure de Notre Ordre du mérite des corps policiers, gouverneure générale et commandante en chef du Canada.

À Notre hôtel du gouvernement, en Notre ville d'Ottawa, ce quatorzième jour de février de l'an de grâce deux mille vingt-deux, soixante et onzième année de Notre règne.

PAR ORDRE,

LE SOUS-REGISTRAIRE
GÉNÉRAL DU CANADA



CANADA
PRIVY COUNCIL • CONSEIL PRIVÉ

P.C. 2022-107
February 15, 2022

Whereas the Governor in Council has, by a proclamation made pursuant to subsection 17(1) of the *Emergencies Act*, declared that a public order emergency exists;

And whereas the Governor in Council believes on reasonable grounds, that the regulation or prohibition of public assemblies in the areas referred to in these Regulations are necessary;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 19(1) of the *Emergencies Act*, makes the annexed *Emergency Measures Regulations*.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

INTERIM CLERK OF THE PRIVY COUNCIL—GREFFIÈRE DU CONSEIL PRIVÉ PAR INTÉRIM



CANADA
PRIVY COUNCIL • CONSEIL PRIVÉ

C.P. 2022-107
15 février 2022

Attendu que la gouverneure en conseil a, par proclamation prise en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*, déclaré qu'il se produit un état d'urgence;

Attendu que la gouverneure en conseil croit, pour des motifs raisonnables, qu'il est fondé de réglementer ou d'interdire des assemblées publiques dans les endroits visés,

À ces causes, sur recommandation du ministre de la Sécurité publique et de la Protection civile et en vertu du paragraphe 19(1) de la *Loi sur les mesures d'urgence*, Son Excellence la Gouverneure générale en conseil prend le *Règlement sur les mesures d'urgences*, ci-après.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

INTERIM CLERK OF THE PRIVY COUNCIL—GREFFIÈRE DU CONSEIL PRIVÉ PAR INTÉRIM

Emergency Measures Regulations

Interpretation

1 The following definitions apply to these Regulations

Act means the *Emergencies Act* (*Loi*)

critical infrastructure means the following places, including any land on which they are located:

(a) airports, aerodromes, heliports, harbours, ports, piers, lighthouses, canals, railway stations, railways, tramway lines, bus stations, bus depots and truck depots;

(b) infrastructure for the supply of utilities such as water, gas, sanitation and telecommunications;

(c) international and interprovincial bridges and crossings;

(d) power generation and transmission facilities;

(e) hospitals and locations where COVID-19 vaccines are administered;

(f) trade corridors and international border crossings, including ports of entry, ferry terminals, customs offices, bonded warehouses, and sufferance warehouses. (*infrastructures essentielles*)

foreign national has the same meaning as in subsection 2(1) of the *Immigration and Refugee Protection Act* (*étranger*)

peace officer means a police officer, police constable, constable, or other person employed for the preservation and maintenance of the public peace (*agent de la paix*)

protected person has the same meaning as in subsection 95(2) of the *Immigration and Refugee Protection Act* (*personne protégée*)

Prohibition – public assembly

2 (1) A person must not participate in a public assembly that may reasonably be expected to lead to a breach of the peace by:

(a) the serious disruption of the movement of persons or goods or the serious interference with trade;

Règlement sur les mesures d'urgence

Définitions

1 Les définitions qui suivent s'appliquent au présent règlement.

agent de la paix Tout officier de police ou agent de police employé à la préservation et au maintien de la paix publique. (*peace officer*)

étranger S'entend au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés*. (*foreign national*)

infrastructures essentielles Les lieux ci-après, y compris le terrain sur lequel ils sont situés :

a) les aéroports, aérodromes, héliports, havres, ports, gares maritimes, jetées, phares, canaux, gares ferroviaires et chemins de fer, terminus d'autobus et garages d'autobus ou de camions;

b) les infrastructures servant à la fourniture de services publics tels que l'eau, le gaz, l'assainissement et les télécommunications;

c) les ponts et les ouvrages de franchissement internationaux et interprovinciaux;

d) les installations de production et de transmission d'énergie;

e) les hôpitaux et les endroits où sont administrés les vaccins contre la COVID-19;

f) les axes commerciaux et les postes frontaliers internationaux, y compris les points d'entrée, les bureaux de douanes, les entrepôts de stockage et les entrepôts d'attente. (*critical infrastructure*)

Loi La *Loi sur les mesures d'urgence*. (*Act*)

personne protégée S'entend au sens du paragraphe 95(2) de la *Loi sur l'immigration et la protection des réfugiés*. (*protected person*)

Interdiction – assemblée publique

2 (1) Il est interdit de participer à une assemblée publique dont il est raisonnable de penser qu'elle aurait pour effet de troubler la paix par l'un des moyens suivants :

(b) the interference with the functioning of critical infrastructure; or

(c) the support of the threat or use of acts of serious violence against persons or property.

Minor

(2) A person must not cause a person under the age of eighteen years to participate in an assembly referred to in subsection (1).

Prohibition — entry to Canada — foreign national

3 (1) A foreign national must not enter Canada with the intent to participate in or facilitate an assembly referred to in subsection 2(1).

Exemption

(2) Subsection (1) does not apply to

(a) a person registered as an Indian under the *Indian Act*;

(b) a person who has been recognized as a Convention refugee or a person in similar circumstances to those of a Convention refugee within the meaning of subsection 146(1) of the *Immigration and Refugee Protection Regulations* who is issued a permanent resident visa under subsection 139(1) of those regulations;

(c) a person who has been issued a temporary resident permit within the meaning of subsection 24(1) of the *Immigration and Refugee Protection Act* and who seeks to enter Canada as a protected temporary resident under subsection 151.1(2) of the *Immigration and Refugee Protection Regulations*;

(d) a person who seeks to enter Canada for the purpose of making a claim for refugee protection;

(e) a protected person;

(f) a person or any person in a class of persons whose presence in Canada, as determined by the Minister of Citizenship and Immigration or the Minister of Public Safety and Emergency Preparedness, is in the national interest.

a) en entravant gravement le commerce ou la circulation des personnes et des biens;

b) en entravant le fonctionnement d'infrastructures essentielles;

c) en favorisant l'usage de la violence grave ou de menaces de violence contre des personnes ou des biens.

Mineur

(2) Il est interdit de faire participer une personne âgée de moins de dix-huit ans à une assemblée visée au paragraphe (1).

Interdiction — entrée au Canada — étranger

3 (1) Il est interdit à l'étranger d'entrer au Canada avec l'intention de participer à une assemblée visée au paragraphe 2(1) ou de faciliter une telle assemblée.

Exemption

(2) Le paragraphe (1) ne s'applique pas aux personnes suivantes :

a) une personne inscrite à titre d'Indien sous le régime de la *Loi sur les Indiens*;

b) la personne reconnue comme réfugié au sens de la Convention, ou la personne dans une situation semblable à celui-ci au sens du paragraphe 146(1) du *Règlement sur l'immigration et la protection des réfugiés*, qui est titulaire d'un visa de résident permanent délivré aux termes du paragraphe 139(1) de ce règlement;

c) la personne qui est titulaire d'un permis de séjour temporaire au sens du paragraphe 24(1) de la *Loi sur l'immigration et la protection des réfugiés* et qui cherche à entrer au Canada à titre de résident temporaire protégé aux termes du paragraphe 151.1(2) du *Règlement sur l'immigration et la protection des réfugiés*;

d) la personne qui cherche à entrer au Canada afin de faire une demande d'asile;

e) la personne protégée;

f) sa présence au Canada est, individuellement ou au titre de son appartenance à une catégorie de personnes, selon ce que conclut le ministre de la Citoyenneté et de l'Immigration ou le ministre de la Sécurité publique et de la Protection civile, dans l'intérêt national.

Travel

4 (1) A person must not travel to or within an area where an assembly referred to in subsection 2(1) is taking place.

Minor — travel near public assembly

(2) A person must not cause a person under the age of eighteen years to travel to or within 500 metres of an area where an assembly referred to in subsection 2(1) is taking place.

Exemptions

(3) A person is not in contravention of subsections (1) and (2) if they are

(a) a person who, within of the assembly area, resides, works or is moving through that area for reasons other than to participate in or facilitate the assembly;

(b) a person who, within the assembly area, is acting with the permission of a peace officer or the Minister of Public Safety and Emergency Preparedness;

(c) a peace officer; or

(d) an employee or agent of the government of Canada or a province who is acting in the execution of their duties.

Use of property — prohibited assembly

5 A person must not, directly or indirectly, use, collect, provide make available or invite a person to provide property to facilitate or participate in any assembly referred to in subsection 2(1) or for the purpose of benefiting any person who is facilitating or participating in such an activity.

Designation of protected places

6 The following places are designated as protected and may be secured:

(a) critical infrastructures;

(b) *Parliament Hill* and the *parliamentary precinct* as they are defined in section 79.51 of the *Parliament of Canada Act*;

(c) official residences;

(d) government buildings and defence buildings

(e) any property that is a building, structure or part thereof that primarily serves as a monument to honour persons who were killed or died as a consequence

Déplacements

4 (1) Il est interdit de se déplacer à destination ou à l'intérieur d'une zone où se tient une assemblée visée au paragraphe 2(1).

Déplacements à proximité d'une assemblée publique — mineur

(2) Il est interdit de faire déplacer une personne âgée de moins de dix-huit ans, à destination ou à moins de 500 mètres de la zone où se tient une assemblée visée au paragraphe 2(1).

Exemptions

(3) Ne contrevient pas aux paragraphes (1) et (2) :

a) la personne qui réside, travaille ou circule dans la zone de l'assemblée, pour des motifs autres que de prendre part à l'assemblée ou la faciliter;

b) la personne qui, relativement à la zone d'assemblée, agit avec la permission d'un agent de la paix ou du ministre de la Sécurité publique et de la Protection civile;

c) l'agent de la paix;

d) l'employé ou le mandataire du gouvernement du Canada ou d'une province qui agit dans l'exercice de ses fonctions.

Utilisation de biens — assemblée interdite

5 Il est interdit, directement ou non, d'utiliser, de réunir, de rendre disponibles ou de fournir des biens — ou d'inviter une autre personne à le faire — pour participer à toute assemblée visée au paragraphe 2(1) ou faciliter une telle assemblée ou pour en faire bénéficier une personne qui participe à une telle assemblée ou la facilite.

Désignation de lieux protégés

6 Les lieux suivants sont protégés et peuvent être aménagés :

a) les infrastructures essentielles;

b) la *cité parlementaire* et la *Colline parlementaire* au sens de l'article 79.51 de la *Loi sur le Parlement du Canada*;

c) les résidences officielles;

d) les immeubles gouvernementaux et les immeubles de la défense;

e) tout ou partie d'un bâtiment ou d'une structure servant principalement de monument érigé en l'honneur

of a war, including a war memorial or cenotaph, or an object associated with honouring or remembering those persons that is located in or on the grounds of such a building or structure, or a cemetery;

(f) any other place as designated by the Minister of Public Safety and Emergency Preparedness.

Direction to render essential goods and services

7 (1) Any person must make available and render the essential goods and services requested by the Minister of Public Safety and Emergency Preparedness, the Commissioner of the Royal Canadian Mounted Police or a person acting on their behalf for the removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade.

Method of request

(2) Any request made under subsection (1) may be made in writing or given verbally by a person acting on their behalf.

Verbal request

(3) Any verbal request must be confirmed in writing as soon as possible.

Period of request

8 A person who, in accordance with these Regulations, is subject to a request under section 7 to render essential goods and services must comply immediately with that request until the earlier of any of the following:

- (a)** the day referred to in the request;
- (b)** the day on which the declaration of the public order emergency expires or is revoked; or
- (c)** the day on which these Regulations are repealed.

Compensation for essential goods and services

9 (1) Her Majesty in right of Canada is to provide reasonable compensation to a person for any goods or services that they have rendered at their request under section 7, which amount must be equal to the current market price for those goods or services of that same type, in the area in which the goods or services are rendered.

des personnes tuées ou décédées en raison d'une guerre — notamment un monument commémoratif de guerre ou un cenotaphe —, d'un objet servant à honorer ces personnes ou à en rappeler le souvenir et se trouvant dans un tel bâtiment ou une telle structure ou sur le terrain où ceux-ci sont situés, ou d'un cimetière;

f) tout autre lieu désigné par le ministre de la Sécurité publique et de la Protection civile.

Ordre de fournir des biens et services essentiels

7 (1) Toute personne doit rendre disponibles et fournir les biens et services essentiels demandés par le ministre de la Sécurité publique et de la Protection civile, du commissaire de la Gendarmerie royale du Canada, ou la personne agissant en leur nom pour l'enlèvement, le remorquage et l'entreposage de véhicules, d'équipement, des structures ou de tout autre objet qui composent un blocage.

Modalités

(2) La demande faite au titre du paragraphe (1) peut être faite par écrit ou communiquée verbalement ou la personne agissant en son nom.

Demande verbale

(3) La demande verbale est confirmée par écrit dès que possible.

Période de validité

8 Quiconque fait l'objet d'une demande au titre de l'article 7 pour la fourniture de biens et de services essentiels est tenu de s'y conformer dans les plus brefs délais jusqu'à la première des dates suivantes :

- a)** la date indiqué à la demande;
- b)** la date de l'abrogation ou la cessation d'effet de la déclaration d'état d'urgence;
- c)** la date de l'abrogation du présent règlement.

Indemnisation pour les biens et services essentiels

9 (1) Sa Majesté du chef du Canada accorde une indemnité raisonnable à la personne pour les biens fournis et les services rendus à sa demande aux termes de l'article 7 dont le montant équivaut au taux courant du marché pour les biens et services de même type, dans la région où les biens ont été fournis ou où les services ont été rendus.

Compensation

(2) Any person who suffers loss, injury or damage as a result of anything done or purported to be done under these Regulations may make an application for compensation in accordance with Part V of the *Emergencies Act* and any regulations made under that Part, as the case may be.

Compliance — peace officer

10 (1) In the case of a failure to comply with these Regulations, any peace officer may take the necessary measures to ensure the compliance with these Regulations and with any provincial or municipal laws and allow for the prosecution for that failure to comply.

Contravention of Regulations

(2) In the case of a failure to comply with these Regulations, any peace officer may take the necessary measures to ensure the compliance and allow for the prosecution for that failure to comply

(a) on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both; or

(b) on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding five years or to both.

Coming into force

11 This Order comes into force on the day on which it is registered.

Indemnisation

(2) Toute personne qui subit des dommages corporels ou matériels entraînés par des actes accomplis, ou censés l'avoir été, en application du présent règlement peut, à cet égard, présenter une demande d'indemnisation conformément à la partie V de la *Loi sur les mesures d'urgence* et à ses règlements d'application, le cas échéant.

Application des lois

10 (1) En cas de contravention au présent règlement, tout agent de la paix peut prendre les mesures nécessaires pour faire observer le présent règlement ou toutes lois provinciales ou municipales et permettre l'engagement de poursuites pour cette contravention.

Pénalités

(2) Quiconque contrevient au présent règlement est coupable d'une infraction passible, sur déclaration de culpabilité :

a) par procédure sommaire, d'une amende maximale de 500 \$ et d'un d'emprisonnement maximal de six mois, ou de l'une de ces peines;

b) par mise en accusation, d'une amende maximale de 5 000 \$ et d'un emprisonnement maximal de cinq ans, ou de l'une de ces peines.

Entrée en vigueur

11 Le présent règlement entre en vigueur à la date de son enregistrement.



CANADA
PRIVY COUNCIL • CONSEIL PRIVÉ

P.C. 2022-108
February 15, 2022

Whereas the Governor in Council has, by a proclamation made pursuant to subsection 17(1) of the *Emergencies Act*, declared that a public order emergency exists;

And whereas the Governor in Council has reasonable grounds to believe that the measures with respect to property referred to in this Order are necessary;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 19(1) of the *Emergencies Act*, makes the annexed *Emergency Economic Measures Order*.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

INTERIM CLERK OF THE PRIVY COUNCIL—GREFFIÈRE DU CONSEIL PRIVÉ PAR INTÉRIM



CANADA
PRIVY COUNCIL • CONSEIL PRIVÉ

C.P. 2022-108
15 février 2022

Attendu que la gouverneure en conseil a, par proclamation prise en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*, déclaré qu'il existe un état d'urgence;

Attendu que la gouverneure en conseil a des motifs raisonnables de croire que les mesures relatives aux biens prévues dans le présent décret sont fondées,

À ces causes, sur recommandation du ministre de la Sécurité publique et de la Protection civile et en vertu du paragraphe 19(1) de la *Loi sur les mesures d'urgence*, Son Excellence la Gouverneure générale en conseil prend le *Décret sur les mesures économiques d'urgence*, ci-après.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

INTERIM CLERK OF THE PRIVY COUNCIL—GREFFIÈRE DU CONSEIL PRIVÉ PAR INTÉRIM

Emergency Economic Measures Order

Definitions

1 The following definitions apply to this Order:

designated person means any individual or entity that is engaged, directly or indirectly, in an activity prohibited by sections 2 to 5 of the *Emergency Measures Regulations*. (*personne désignée*)

entity includes a corporation, trust, partnership, fund, unincorporated association or organization or foreign state. (*entité*)

Duty to cease dealings

2 (1) Any entity set out in section 3 must, upon the coming into force of this Order, cease

(a) dealing in any property, wherever situated, that is owned, held or controlled, directly or indirectly, by a designated person or by a person acting on behalf of or at the direction of that designated person;

(b) facilitating any transaction related to a dealing referred to in paragraph (a);

(c) making available any property, including funds or virtual currency, to or for the benefit of a designated person or to a person acting on behalf of or at the direction of a designated person; or

(d) providing any financial or related services to or for the benefit of any designated person or acquire any such services from or for the benefit of any such person or entity.

Insurance policy

(2) Paragraph 2(1)(d) does not apply in respect of any insurance policy which was valid prior to the coming into force of this Order other than an insurance policy for any vehicle being used in a public assembly referred to in subsection 2(1) of the *Emergency Measures Regulations*.

Duty to determine

3 The following entities must determine on a continuing basis whether they are in possession or control of property that is owned, held or controlled by or on behalf of a designated person:

Décret sur les mesures économiques d'urgence

Définitions

1 Les définitions qui suivent s'appliquent au présent décret :

entité S'entend notamment d'une personne morale, d'une fiducie, d'une société de personne, d'un fonds, d'une organisation ou d'une association dotée de la personnalité morale ou d'un État étranger. (*entity*)

personne désignée Toute personne physique ou entité qui participe, même indirectement, à l'une ou l'autre des activités interdites au titre des articles 2 à 5 du *Règlement sur les mesures d'urgence*. (*designated person*)

Obligations de cesser les opérations

2 (1) Dès l'entrée en vigueur du présent décret, les entités visées à l'article 3 doivent cesser :

(a) toute opération portant sur un bien, où qu'il se trouve, appartenant à une personne désignée ou détenu ou contrôlé par elle ou pour son compte ou suivant ses instructions;

(b) toute transaction liée à une opération visée à l'alinéa a) ou d'en faciliter la conclusion;

(c) de rendre disponible des biens — notamment des fonds ou de la monnaie virtuelle — à une personne désignée ou à une personne agissant pour son compte ou suivant ses instructions, ou au profit de l'une ou l'autre de ces personnes;

(d) de fournir des services financiers ou connexes à une personne désignée ou à son profit ou acquérir de tels services auprès d'elle ou à son profit.

Police d'assurance

(2) Toutefois, l'alinéa 2(1)d) ne s'applique pas à l'égard d'une police d'assurance effective — au moment de l'entrée en vigueur du présent décret — portant sur un véhicule autre que celui utilisé lors d'une assemblée publique visée au paragraphe 2(1) du *Règlement sur les mesures d'urgence*.

Vérification

3 Il incombe aux entités mentionnées ci-après de vérifier de façon continue si des biens qui sont en leur possession

(a) *authorized foreign banks*, as defined in section 2 of the *Bank Act*, in respect of their business in Canada, and banks regulated by that Act;

(b) cooperative credit societies, savings and credit unions and caisses populaires regulated by a provincial Act and associations regulated by the *Cooperative Credit Associations Act*;

(c) *foreign companies*, as defined in subsection 2(1) of the *Insurance Companies Act*, in respect of their insurance business in Canada;

(d) *companies, provincial companies and societies*, as those terms are defined in subsection 2(1) of the *Insurance Companies Act*;

(e) fraternal benefit societies regulated by a provincial Act in respect of their insurance activities and insurance companies and other entities regulated by a provincial Act that are engaged in the business of insuring risks;

(f) companies regulated by the *Trust and Loan Companies Act*;

(g) trust companies regulated by a provincial Act;

(h) loan companies regulated by a provincial Act;

(i) entities that engage in any activity described in paragraphs 5(h) and (h.1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*;

(j) entities authorized under provincial legislation to engage in the business of dealing in securities or to provide portfolio management or investment counselling services;

(k) entities that provide a platform to raise funds or virtual currency through donations; and

(l) entities that perform any of the following payment functions:

(i) the provision or maintenance of an account that, in relation to an electronic funds transfer, is held on behalf of one or more end users,

(ii) the holding of funds on behalf of an end user until they are withdrawn by the end user or transferred to another individual or entity,

(iii) the initiation of an electronic funds transfer at the request of an end user,

ou sous leur contrôle appartiennent à une personne désignée ou sont détenus ou contrôlés par elle ou pour son compte :

a) les banques étrangères autorisées, au sens de l'article 2 de la *Loi sur les banques*, dans le cadre de leurs activités au Canada, et les banques régies par cette loi;

b) les coopératives de crédit, caisses d'épargne et de crédit et caisses populaires régies par une loi provinciale et les associations régies par la *Loi sur les associations coopératives de crédit*;

c) les sociétés étrangères, au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*, dans le cadre de leurs activités d'assurance au Canada;

d) les sociétés, les sociétés de secours et les sociétés provinciales, au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*;

e) les sociétés de secours mutuel régies par une loi provinciale, dans le cadre de leurs activités d'assurance, et les sociétés d'assurances et autres entités régies par une loi provinciale qui exercent le commerce de l'assurance;

f) les sociétés régies par la *Loi sur les sociétés de fiducie et de prêt*;

g) les sociétés de fiducie régies par une loi provinciale;

h) les sociétés de prêt régies par une loi provinciale;

i) les entités qui se livrent à une activité visée aux alinéas 5h) et h.1) de la *Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes*;

j) les entités autorisées en vertu de la législation provinciale à se livrer au commerce des valeurs mobilières ou à fournir des services de gestion de portefeuille ou des conseils en placement;

k) les plateformes collaboratives et celles de monnaie virtuelle qui sollicitent des dons;

l) toute entité qui exécute l'une ou l'autre de fonctions suivantes :

(i) la fourniture ou la tenue d'un compte détenu au nom d'un ou de plusieurs utilisateurs finaux en vue d'un transfert électronique de fonds,

(iv) the authorization of an electronic funds transfer or the transmission, reception or facilitation of an instruction in relation to an electronic funds transfer, or

(v) the provision of clearing or settlement services.

Registration requirement — FINTRAC

4 (1) The entities referred to in paragraphs 3(k) and (l) must register with the Financial Transactions and Reports Analysis Centre of Canada established by section 41 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* if they are in possession or control of property that is owned, held or controlled by or on behalf of a designated person.

Reporting obligation — suspicious transactions

(2) Those entities must also report to the Centre every financial transaction that occurs or that is attempted in the course of their activities and in respect of which there are reasonable grounds to suspect that

(a) the transaction is related to the commission or the attempted commission of a money laundering offence by a designated person; or

(b) the transaction is related to the commission or the attempted commission of a terrorist activity financing offence by a designated person.

Reporting obligation — other transactions

(3) Those entities must also report to the Centre the transactions and information set out in subsections 30(1) and 33(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*.

Duty to disclose — RCMP or CSIS

5 Every entity set out in section 3 must disclose without delay to the Commissioner of the Royal Canadian Mounted Police or to the Director of the Canadian Security Intelligence Service

(a) the existence of property in their possession or control that they have reason to believe is owned, held or controlled by or on behalf of a designated person; and

(ii) la détention de fonds au nom d'un utilisateur final jusqu'à ce qu'ils soient retirés par celui-ci ou transférés à une personne physique ou à une entité,

(iii) l'initiation d'un transfert électronique de fonds à la demande d'un utilisateur final,

(iv) l'autorisation de transfert électronique de fonds ou la transmission, la réception ou la facilitation d'une instruction en vue d'un transfert électronique de fonds,

(v) la prestation de services de compensation ou de règlement.

Inscription obligatoire — Centre

4 (1) Les entités visées aux alinéas 3k) et l) doivent s'inscrire auprès du Centre d'analyse des opérations et déclarations financières du Canada constitué par l'article 41 de la *Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes* s'ils ont en leur possession un bien appartenant à une personne désignée ou détenu ou contrôlé par elle ou pour son compte ou suivant ses instructions.

Opérations douteuses

(2) Elles doivent également déclarer au Centre toute opération financière effectuée ou tentée dans le cours de ses activités et à l'égard de laquelle il y a des motifs raisonnables de soupçonner qu'elle est liée à la perpétration — réelle ou tentée — par à une personne désignée :

a) soit d'une infraction de recyclage des produits de la criminalité;

b) soit d'une infraction de financement des activités terroristes.

Autres opérations

(3) Elles doivent également déclarer au Centre les opérations visées aux paragraphes 30(1) ou 33(1) du *Règlement sur le recyclage des produits de la criminalité et le financement des activités terroristes*.

Obligation de communication à la GRC et au SCRC

5 Toute entité visée à l'article 3 est tenue de communiquer, sans délai, au commissaire de la Gendarmerie royale du Canada ou au directeur du Service canadien du renseignement de sécurité :

a) le fait qu'elle croit que des biens qui sont en sa possession ou sous son contrôle appartiennent à une personne désignée ou sont détenus ou contrôlés par elle ou pour son compte;

(b) any information about a transaction or proposed transaction in respect of property referred to in paragraph (a).

Disclosure of information

6 A Government of Canada, provincial or territorial institution may disclose information to any entity set out in section 3, if the disclosing institution is satisfied that the disclosure will contribute to the application of this Order.

Immunity

7 No proceedings under the *Emergencies Act* and no civil proceedings lie against an entity for complying with this Order.

Coming into force

8 This Order comes into force on the day on which it is registered.

b) tout renseignement portant sur une transaction, réelle ou projetée, mettant en cause des biens visés à l'alinéa a).

Communication

6 Toute institution fédérale, provinciale ou territoriale peut communiquer des renseignements au responsable d'une entité visée à l'article 3, si elle est convaincue que les renseignements aideront à l'application du présent décret.

Immunité

7 Aucune poursuite en vertu de la *Loi sur les mesures d'urgence* ni aucune procédure civile ne peuvent être intentées contre une entité qui se conforme au présent décret.

Entrée en vigueur

8 Le présent décret entre en vigueur à la date de son enregistrement.

**Description of material constituting a confidence of the Queen's Privy Council for Canada
in relation to Court File No.: T-347-22
*Canadian Constitution Foundation v Attorney General of Canada***

**Record before the Governor in Council in making Order in Council P.C. 2022-0106;
Proclamation Declaring a Public Order Emergency: SOR/2022-20**

1. Submission to the Governor in Council, February 2022, in English and in French, from the Honourable Marco Mendicino, Minister of Public Safety and Emergency Preparedness, regarding the proposed Order in Council directing that a proclamation be issued pursuant to subsection 17(1) of the *Emergencies Act*, including the signed Ministerial recommendation, a draft Order in Council regarding a proposed proclamation, a draft proclamation, and accompanying materials.

This information, including all its attachments in their entirety, which are integral parts of the document, constitutes a memorandum the purpose of which is to present proposals or recommendations to Council. Therefore, the information is within paragraph 39(2)(a) of the *Canada Evidence Act* (Act).

2. The record recording the decision of Council concerning a proclamation, February 2022, signed by Council.

This information constitutes a record recording deliberations or decisions of Council. The information is therefore within paragraph 39(2)(c) of the Act, as constituting an agenda of Council or a record recording deliberations or decisions of Council

**Record before the Governor in Council in making Order in Council P.C. 2022-0107;
Emergency Measures Regulations: SOR/2022-21**

3. Submission to the Governor in Council, February 2022, in English and in French, from the Honourable Marco Mendicino, Minister of Public Safety and Emergency Preparedness, regarding the proposed Order in Council pursuant to subsection 19(1) of the *Emergencies Act* and concerning emergency measures regulations, including the signed Ministerial recommendation, a draft Order in Council regarding proposed emergency measures regulations, draft regulations, and accompanying materials.

This information, including all its attachments in their entirety, which are integral parts of the document, constitutes a memorandum the purpose of which is to present proposals or recommendations to Council. Therefore, the information is within paragraph 39(2)(a) of the Act.

4. The record recording the decision of Council concerning emergency measures regulations, February 2022, signed by Council.

This information constitutes a record recording deliberations or decisions of Council. The information is therefore within paragraph 39(2)(c) of the Act, as constituting an agenda of Council or a record recording deliberations or decisions of Council.

**Record before the Governor in Council in making Order in Council P.C. 2022-0108;
Emergency Economic Measures Order: SOR/2022-22**

5. Submission to the Governor in Council, February 2022, in English and in French, from the Honourable Marco Mendicino, Minister of Public Safety and Emergency Preparedness, regarding the proposed Order in Council pursuant to subsection 19(1) of the *Emergencies Act* and concerning an emergency economic measures order, including the signed Ministerial recommendation, a draft Order in Council regarding a proposed emergency economic measures order, a draft order, and accompanying materials.

This information, including all its attachments in their entirety, which are integral parts of the document, constitutes a memorandum the purpose of which is to present proposals or recommendations to Council. Therefore, the information is within paragraph 39(2)(a) of the Act.

6. The record recording the decision of Council concerning an emergency economic measures order, February 2022, signed by Council.

This information constitutes a record recording deliberations or decisions of Council. The information is therefore within paragraph 39(2)(c) of the Act, as constituting an agenda of Council or a record recording deliberations or decisions of Council

Examined by Counsel to the Clerk of the Privy Council
this 14 of March, 2022



Jodie van Dieen

This is **EXHIBIT “N”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "Janani S", positioned above a horizontal line.

Janani Shanmuganathan

Court File No.: T-306-22

FEDERAL COURT

B E T W E E N:

CANADIAN FRONTLINE NURSES AND KRISTEN NAGLE

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF STEVEN SHRAGGE

Court File No.: T-316-22

FEDERAL COURT

B E T W E E N:

CANADIAN CIVIL LIBERTIES ASSOCIATION

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF STEVEN SHRAGGE

Court File No.: T-347-22

FEDERAL COURT

B E T W E E N:

CANADIAN CONSTITUTION FOUNDATION

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF STEVEN SHRAGGE

FEDERAL COURT

B E T W E E N:

**JEREMIAH JOST, EDWARD CORNELL, VINCENT GIRCYS, and HAROLD
RISTAU**

Applicants

and

**GOVERNOR IN COUNCIL, HER MAJESTY IN RIGHT OF CANADA,
ATTORNEY GENERAL OF CANADA, and MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS**

Respondents

AFFIDAVIT OF STEVEN SHRAGGE

I, Steven Shragge, of the City of Ottawa in the Province of Ontario, AFFIRM THAT:

1. I am a Senior Policy Advisor with the Privy Council Office, Security and Intelligence Secretariat. I have held this role since June 2021. My duties include monitoring and coordinating operational and policy issues related to national security in consultation with security departments and agencies, providing advice and support to the National Security and Intelligence Advisor to the Prime Minister, and supporting the Cabinet Process for files within my purview. I have worked in various government departments over the last 20 years and have been employed at the Privy Council Office (PCO) since October 2020 in national security-related functions.
2. I have operational knowledge of the mandates, memberships, and practices of decision-making and coordination structures. I do not have direct knowledge of Cabinet, council and ministerial deliberation and decision-making discussions during the days directly preceding the declaration of a public order emergency on February 14, 2022.
3. I have personal knowledge of all matters hereinafter deposed to, except where I have stated that my knowledge is on information and belief, in which case I have identified the source of my information and believe it to be true.
4. A report to the Houses of Parliament entitled “February 14, 2022 Declaration of Public Order Emergency Explanation pursuant to subsection 58(1) of the *Emergencies Act*” (“the Section 58 Explanation”) was prepared by the Government and tabled in the House of Commons on February 16, 2022 and in the Senate on February 21, 2022. As stated in the *Emergencies Act* (the Act), the s. 58 Explanation contains an explanation of the reasons for issuing the declaration. At the same time and pursuant to the Act, the Report to the Houses of Parliament: *Emergencies Act* Consultations was also tabled in the House of Commons and in the Senate. Attached hereto and marked as **Exhibit “A”** is a copy of the Section 58 Explanation. Attached hereto and marked as **Exhibit “B”** is a copy of the Report to the Houses of Parliament: *Emergencies Act* Consultations, dated February 16, 2022.

5. The Section 58 Explanation states that the decision to issue the declaration was informed by robust discussions at three meetings of the Incident Response Group (IRG) on February 10, 12 and 13, 2022. The IRG serves as a dedicated emergency committee to advise the Prime Minister in the event of a national crisis or during incidents elsewhere that have major implications for Canada. The IRG is a coordination body responsible for promoting a prompt federal response to an incident to keep Canadians safe and secure, at home and abroad. The IRG is intended to provide advice to the Prime Minister, as well as help support coordination and information exchange amongst Ministers and drive forward a whole-of-government response to incidents.
6. The IRG is a working group of ministers. Membership can vary based on the nature of the incident and include both Ministers and other officials as required. Incidents are diverse and can include natural disasters, global security events, and the illegal blockades.
7. On February 10, 2022, Prime Minister Justin Trudeau convened the IRG on the ongoing illegal blockades taking place across the country. Prime Minister Trudeau was joined by ministers and senior officials who were actively engaged and working closely with provincial and municipal governments, and who were assessing the requirements and deploying all federal resources necessary to help them get the situation under control.
8. The IRG subsequently met on February 12 and 13, 2022, leading up to the Proclamation Declaring a Public Order Emergency. Those meetings also included Prime Minister Trudeau, Ministers and senior officials.
9. In addition, I am aware that Cabinet met on February 13, 2022.
10. On February 14, 2022, the Governor in Council declared a public order emergency under the *Emergencies Act* in respect of the illegal blockades occurring nationally.
11. Cabinet met again on February 15, 2022 at a regular meeting of Cabinet.

12. The *Emergency Measures Regulations*, SOR/2022-0021, and the *Emergency Economic Measures Order*, SOR/2022-22, were enacted on February 15, 2022.

13. On February 16, 2022, the Honourable Marco Mendicino brought a motion that, pursuant to section 58 of the Act, the House of Commons confirm the declaration of a public order emergency proclaimed on February 14, 2022. The motion was presented together with the Section 58 Explanation and the Report to the Houses of Parliament: *Emergencies Act* Consultations. Attached hereto and marked as **Exhibit "C"** is a copy of the Motion dated February 16, 2022.

14. On February 21, 2022, the motion passed with 185 votes in favour and 151 votes against. Attached hereto and marked as **Exhibit "D"** is a copy of the House of Commons Journals dated February 21, 2022.

15. On February 23, 2022, the declaration of a public order emergency under the *Emergencies Act* was revoked.

16. I make this affidavit in response to the applications for judicial review in court file numbers T-306-22, T-347-22, T-316-22, and T-382-22 and for no other or improper purpose.

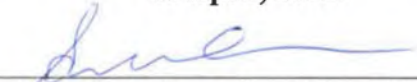
AFFIRMED BEFORE ME at the City of)
Ottawa, in the Province of Ontario)
this 4th day of April, 2022)
)
)
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Commissioner for Taking Affidavit

LSO: 639974


STEVEN SHRAGGE

This is **Exhibit "A"** referred to
in the affidavit of
Steven Shragge
Affirmed before me this 4th day
of **April, 2022**.



A Commissioner for taking affidavits

LSO 63497W

February 14, 2022 Declaration of Public Order Emergency

Explanation pursuant to subsection 58(1) of the *Emergencies Act*

Declaration of Public Order Emergency

On February 14, 2022, the Governor in Council directed that a proclamation be issued pursuant to subsection 17(1) of the *Emergencies Act* declaring that a public order emergency exists throughout Canada that necessitates the taking of special temporary measures for dealing with the emergency.

In order to declare a public order emergency, the *Emergencies Act* requires that there be an emergency that arises from threats to the security of Canada that are so serious as to be a national emergency. Threats to the security of Canada include the threat or use of acts of serious violence against persons or property for the purpose of achieving a political or ideological objective. A national emergency is an urgent, temporary and critical situation that seriously endangers the health and safety of Canadians that cannot be effectively dealt with by the provinces or territories, or that seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada. It must be a situation that cannot be effectively dealt with by any other law of Canada. Any measures taken under the *Act* must be exercised in accordance with the *Canadian Charter of Rights and Freedoms* and should be carefully tailored to limit any impact on *Charter* rights to what is reasonable and proportionate in the circumstances.

The *Proclamation Declaring a Public Order Emergency* made on February 14, 2022 specified that the public order emergency is constituted of:

- (i) the continuing blockades by both persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada,
- (ii) the adverse effects on the Canadian economy — recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19) — and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings,
- (iii) the adverse effects resulting from the impacts of the blockades on Canada's relationship with its trading partners, including the United States (U.S.), that are detrimental to the interests of Canada,

(iv) the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the risk that this breakdown will continue as blockades continue and increase in number, and

(v) the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians.

The proclamation specifies six types of temporary measures that may be necessary to deal with the public order emergency:

(i) measures to regulate or prohibit any public assembly — other than lawful advocacy, protest or dissent — that may reasonably be expected to lead to a breach of the peace, or the travel to, from or within any specified area, to regulate or prohibit the use of specified property, including goods to be used with respect to a blockade, and to designate and secure protected places, including critical infrastructure,

(ii) measures to authorize or direct any person to render essential services of a type that the person is competent to provide, including services related to removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade anywhere in Canada, to relieve the impacts of the blockades on Canada's public and economic safety, including measures to identify those essential services and the persons competent to render them and to provide reasonable compensation in respect of services so rendered,

(iii) measures to authorize or direct any person to render essential services to relieve the impacts of the blockade, including measures to regulate or prohibit the use of property to fund or support the blockade, to require any crowdfunding platform and payment processor to report certain transactions to the Financial Transactions and Reports Analysis Centre of Canada and to require any financial service provider to determine whether they have in their possession or control property that belongs to a person who participates in the blockade,

(iv) measures to authorize the Royal Canadian Mounted Police (RCMP) to enforce municipal and provincial laws by means of incorporation by reference,

(v) the imposition of fines or imprisonment for contravention of any order or regulation made under section 19 of the *Emergencies Act*; and

(vi) other temporary measures authorized under section 19 of the *Emergencies Act* that are not yet known.

These measures have been implemented by the *Emergency Measures Regulations* and the *Emergency Economic Measures Order*.

Section 58(1) of the *Emergencies Act* requires that a motion for confirmation of a declaration of emergency, signed by a Minister of the Crown, together with an explanation of the reasons for

issuing the declaration and a report on any consultation with the lieutenant governors in council of the provinces with respect to the declaration, be laid before each House of Parliament within seven sitting days after the declaration is issued.

Background leading to the declaration of emergency

The “Freedom Convoy 2022” was the first manifestation of this growing movement centered on anti-government sentiments related to the public health response to the COVID-19 pandemic. Trucker convoys began their journey from various points in the country, and the movement arrived in Ottawa on Friday, January 28, 2022. Since then, the movement has only continued to gain momentum across the country, with significant increase in numbers in Ottawa as well as protests and blockades spreading in different locations, including strategic ports of entry (e.g., Ambassador Bridge, Ontario; Coutts, Alberta; and Emerson, Manitoba).

Participants of these activities have adopted a number of tactics that are threatening, causing fear, disrupting the peace, impacting the Canadian economy, and feeding a general sense of public unrest – either in favour or against the movement. This has included harassing and berating citizens and members of the media, slow roll activity, slowing down traffic and creating traffic jams, in particular near ports of entry, as well as reports of protesters bringing children to protest sites to limit the level and types of law enforcement intervention. The movement has moved beyond a peaceful protest, and there is significant evidence of illegal activity underway. Regular citizens, municipalities and the province of Ontario have all participated in court proceedings seeking injunctive relief to manage the threats and impacts caused by the convoy’s activities, and a proposed class-action has been filed on behalf of residents of Ottawa.

Anecdotal reports of donations from outside Canada to support the protesters were given credence when, on February 13, 2022, hackers of the crowdfunding website, GiveSendGo.com, released hacked data that revealed information about donors and the amount of donations directed to the protesters. According to the Canadian Broadcasting Corporation’s February 14, 2022 analysis of the data, 55.7% of the 92,844 donations made public were made by donors in the U.S., compared to 39% of donors located in Canada. The remaining donors were in other countries, with the U.K. being the most common. The amount donated by U.S. donors totaled \$3.6 million (USD). Many of the donations were made anonymously.

Requests for Assistance and Consultations

The federal government has been in contact with its provincial counterparts throughout this situation. Some requests for federal support to deal with the blockades were from:

- the City of Ottawa for policing services;
- the Province of Ontario with respect to the Ambassador Bridge in Windsor, Ontario; and

- the Province of Alberta with respect to tow truck capacity at the Coutts port of entry.

For further details on the consultations, please see the Report to the Houses of Parliament: *Emergencies Act Consultations*.

Emergency Measures Taken by Ontario and other provinces

On February 11, 2022, the Province of Ontario declared a province-wide state of emergency under its *Emergency Management and Civil Protection Act*, in response to the interference with transportation and other critical infrastructure throughout the province, which is preventing the movement of people and delivery of essential goods.

Measures that have since been implemented under these emergency measures include: fines and possible imprisonment for protesters refusing to leave, with penalties of \$100,000 and up to one year of imprisonment for non-compliance.

On February 12, 2022, the Ontario Government also enacted legislation under the *Emergency Management and Civil Protection Act*, (Ontario Regulation 71/22) making it illegal and punishable to block and impede the movement of goods, people and services along critical infrastructure. New Brunswick has announced that it will update its *Emergency Act* to prohibit stopping or parking a vehicle or otherwise contributing to the interruption of the normal flow of vehicle traffic on any road or highway. Nova Scotia similarly issued a directive under its *Emergency Management Act* prohibiting protests from blockading a highway near the Nova Scotia-New Brunswick border.

No other province has signaled its intent to take similar steps.

As detailed in the Reasons below, the convoy activities have led to an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency.

Reasons for Public Order Emergency

The situation across the country remains concerning, volatile and unpredictable. The decision to issue the declaration was informed by an assessment of the overall, national situation and robust discussions at three meetings of the Incident Response Group on February 10, 12 and 13, 2022.

The intent of these measures is to supplement provincial and territorial authorities to address the blockades and occupation and to restore public order, the rule of law and confidence in Canada's institutions. These time-limited measures will be used only where needed depending on the nature of the threat and its evolution and would not displace or replace provincial and territorial authorities, nor would they derogate provinces and territories' authority to direct their police

forces. The convoy activities and their impact constituting the reasons for the emergency as set out in the *Proclamation Declaring a Public Order Emergency* are detailed below:

- i. **the continuing blockades by both persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada;**

The protests have become a rallying point for anti-government and anti-authority, anti-vaccination, conspiracy theory and white supremacist groups throughout Canada and other Western countries. The protesters have varying ideological grievances, with demands ranging from an end to all public health restrictions to the overthrow of the elected government. As one example, protest organizers have suggested forming a coalition government with opposition parties and the involvement of Governor General Mary Simon. This suggestion appears to be an evolution of a previous proposal from a widely circulated “memorandum of understanding” from a group called “Canada Unity” that is taking part in the convoy. The “memorandum of understanding” proposed that the Senate and Governor General could agree to join them in forming a committee to order the revocation of COVID-19 restrictions and vaccine mandates.

Tactics adopted by protesters in support of these aims include slow roll activity, slowing down traffic and creating traffic jams, in particular near ports of entry, as well as reports of protesters bringing children to protest sites to limit the level and types of law enforcement intervention. The intent of the protestors at ports of entry was to impede the importation and exportation of goods across the Canada-U.S. border in order to achieve a change in the Government of Canada’s COVID health measures in addition to other government policies.

Trucks and personal vehicles in the National Capital Region continue to disrupt daily life in Ottawa and have caused retail and other businesses to shutter. Local tow truck drivers have refused to work with governments to remove trucks in the blockade. The Chief of the Ottawa Police Service resigned on February 15, 2022 in response to criticism of the police’s response to the protests.

Convoy supporters formerly employed in law enforcement and the military have appeared alongside organizers and may be providing them with logistical and security advice, which may pose operational challenges for law enforcement should policing techniques and tactics be revealed to convoy participants. There is evidence of coordination between the various convoys and blockades.

Violent incidents and threats of violence and arrests related to the protests have been reported across Canada. The RCMP's recent seizure of a cache of firearms with a large quantity of ammunition in Coutts, Alberta, indicated that there are elements within the protests that have intentions to engage in violence. Ideologically motivated violent extremism adherents may feel empowered by the level of disorder resulting from the protests. Violent online rhetoric, increased threats against public officials and the physical presence of ideological extremists at protests also indicate that there is a risk of serious violence and the potential for lone actor attackers to conduct terrorism attacks.

To help manage these blockades and their significant adverse impacts, the *Emergency Measures Regulations* prohibit certain types of public assemblies ("prohibited assemblies") that may reasonably be expected to lead to a breach of the peace by: (i) the serious disruption of the movement of persons or goods or the serious interference with trade; (ii) interference with the functioning of critical infrastructure; or (iii) the support the threat or use of acts of serious violence against persons or property. They also prohibit individuals from (i) participating or causing minors to participate in prohibited assemblies; (ii) travelling to or within an area where prohibited assemblies are taking place, or causing minors to travel to or within 500 metres of a prohibited assembly, subject to certain exceptions; and (iii) directly or indirectly using, collecting, providing, making available or soliciting property to facilitate or participate in a prohibited assembly or to benefit any person who is facilitating or participating in a prohibited assembly. Foreign nationals are also prohibited from entering Canada with the intent to participate or facilitate a prohibited public assembly, subject to certain exceptions.

The *Emergency Management Regulations* also designate certain places as protected and provide that they may be secured, including Parliament Hill and the parliamentary precinct, critical infrastructures, official residences, government and defence buildings, and war memorials.

- ii. **the adverse effects on the Canadian economy — recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19) — and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings**

Trade and transportation within Canada and between Canada and the U.S. is highly integrated. Border crossing, railway lines, airports and ports of entry are integrated and are adversely affected where one or more of the components is blockaded or prevented from operating under normal capacity.

Trade between Canada and the U.S. is crucial to the economy and the lives and welfare of all Canadians. Approximately 75% of Canadian exports go to the U.S., generating approximately \$2 billion in imports/exports per day and \$774 billion in total trade between the two countries in 2021.

Blockades and protests at numerous points along the Canada–U.S. border have already had a severe impact on Canada’s economy. Protests at the major ports of entry at the Ambassador Bridge in Windsor, Ontario; Emerson, Manitoba; Coutts Alberta; and, Pacific Highway in British Columbia, each of which is critical to the international movement of people and goods, required the Canada Border Services Agency (CBSA) to suspend services.

An essential trading corridor, the Ambassador Bridge is Canada’s busiest crossing, handling over \$140 billion in merchandise trade in 2021. It accounted for 26% of the country’s exports moved by road in 2021 (\$63 billion out of \$242 billion) and 33% of the country’s imports (\$80 billion out of \$240 billion). Since the blockades began at the Ambassador Bridge, over \$390 million in trade each day with Canada’s most important trading partner, the U.S., has been affected, resulting in the loss of employee wages, reduced automotive processing capacity and overall production loss in an industry already hampered by the supply shortage of critical electronic components. This bridge supports 30% of all trade by road between Canada and the U.S. The blockades in Coutts, Alberta, and Emerson, Manitoba, have affected approximately \$48 million and \$73 million in trade each day, respectively. These recent events targeting Canada’s high volume commercial ports of entry have irreparably harmed the confidence that our trading partners have in Canada’s ability to effectively contribute to the global economy and will result in manufacturers reassessing their manufacturing investments in Canada, impacting the health and welfare of thousands of Canadians.

In addition, throughout the week leading up to February 14, 2022, there were 12 additional protests that directly impacted port of entry operations. At two locations, Pacific Highway and Fort Erie, protestors had breached the confines of the CBSA plaza resulting in CBSA officers locking down the office to prevent additional protestors from gaining entry.

More specifically, disruptions at strategic ports of entry in Alberta, British Columbia, Manitoba and Ontario prior to the declaration of the emergency included:

- Ambassador Bridge, Windsor, Ontario: The busiest crossing along the Canada-U.S. border had been blocked since February 7, 2022. After an injunction was issued on February 11, 2022, law enforcement started to disperse protesters. On February 13, 2022, police enforcement action continued with reports of arrests being made and vehicles towed. As of the evening of February 13, 2022, the Ambassador Bridge has been fully reopened, and no delays at the border crossing are being reported, but efforts continue to ensure that the bridge remains open.

- Sarnia, Ontario: On February 8, 2022, two large groups of protestors conducted a blockade of the provincial highway leading to and from the Sarnia Blue Water Bridge. This port of entry is Canada's second busiest border crossing with imports and exports serving the oil and gas, perishable foods, livestock and automotive sectors. The protest resulted in the suspension of all outbound movement of commercial and traveller vehicles to the U.S. along with reduced inbound capacity for incoming conveyances. The Ontario Provincial Police (OPP) were able to restore order to the immediate area of the port of entry after ten hours of border disruption. On February 9, 2022, members of one of the protest groups established a highway blockade approximately 30 kilometres east of Sarnia on the provincial highway, resulting in the diversion of international traffic to emergency detour routes to gain access to the border. This activity continued until February 14, 2022 when access to the portion of the highway was restored.
- Fort Erie, Ontario: On February 12, 2022, a large protest targeted the CBSA Peace Bridge port of entry at Fort Erie, Ontario. This port of entry is Canada's third busiest land border crossing responsible for millions of dollars in international trade each day of perishable goods, manufacturing components and courier shipments of personal and business goods being imported and exported. The protest disrupted inbound traffic for a portion of the day on February 12, 2022 and resulted in the blockade of outbound traffic until February 14, 2022 when the OPP and Niagara Regional Police were able to restore security of the trade corridor linking the provincial highway to the border crossing.
- Emerson, Manitoba: As of February 13, 2022, vehicles of the blockade remain north of the port of entry. Some local traveller traffic was able to enter Canada, however commercial shipments are unable to use the highway North of Emerson resulting in disruptions to live animal, perishable and manufactured goods shipments into Canada and exports to the U.S. The protesters have allowed some live animal shipments to proceed through the blockade for export to the U.S.
- Coutts, Alberta: The blockade began on January 29, 2022, resulting in the disruption of Canada and U.S. border traffic. This port of entry is a critical commercial border point for the movement of live animals, oil and gas, perishable and manufactured goods destined for Alberta and western Saskatchewan. As of February 14, 2022, the RCMP, who is the police of jurisdiction pursuant to the provincial Police Service Agreement, have arrested 11 individuals and seized a cache of weapons and ammunition. Four of these individuals were charged with conspiracy to commit murder, in addition to other offences. The RCMP restored access to the provincial highway North of Coutts on February 15, 2022 and border services were fully restored, but efforts continue to ensure that it remains open.

- Vancouver, British Columbia (BC), and Metro area: On February 12, 2022, several vehicles including a military-style vehicle broke through an RCMP barricade in south Surrey, BC, on their way to the Pacific Highway port of entry. Protesters forced the highway closure at the Canada-U.S. border in Surrey.

In addition, on February 12, 2022, police in Cornwall, Ontario warned of potential border delays and blockages due to protests.

These blockades and protests directly threaten the security of Canada's borders, with the potential to endanger the ability of Canada to manage the flow of goods and people across the border and the safety of CBSA officers and to undermine the trust and coordination between CBSA officials and their American partners. Additional blockades are anticipated. While Ontario's *Emergency Management and Civil Protection Act* authorizes persons to provide assistance, it specifically does not compel them to do so. Tow truck operators remain free to decline requests to tow vehicles that were part of the blockades and they have refused to render assistance to the government of Ontario. It was beyond the capacity of the province of Ontario to ensure in a timely manner that tow trucks could be used to clear vehicles. The emergency measures now allow the federal Minister of Public Safety and Emergency Preparedness or any other person acting on their behalf to immediately compel individuals to provide and render essential goods and services for the removal, towing or storage of any vehicle or other object that is part of a blockade and provides that reasonable compensation will be payable. Individuals who suffer loss or damage because of actions taken under these Regulations may apply for compensation.

Threats were also made to block railway lines, which would result in significant disruptions. Canada's freight rail industry transports more than \$310 billion worth of goods each year on a network that runs from coast to coast. Canada's freight railways serve customers in almost every part of the Canadian economy: from manufacturing to the agricultural, natural resource, wholesale and retail sectors. In addition, freight railways have Canadian operating revenues of more than \$16 billion a year.

The impact on important trade corridors and the risk to the reputation of Canada as a stable, predictable and reliable location for investment may be jeopardized if disruptions continue. The current federal and provincial financial systems are ill-equipped to mitigate the adverse effects of the economic impact without additional measures. The *Emergency Economic Measures Order* requires a comprehensive list of financial service providers to determine whether any of the property in their possession or control belong to protesters participating in the illegal blockades and to cease dealing with those protesters. Financial service providers who would otherwise be outside federal jurisdiction are subject to the Order. Given the ability to move financial resources between financial service providers without regard to their geographic location or whether they are provincially- or federally-regulated, it is essential that all financial service providers be subject to the Order if protesters are to be prevented from accessing financial services. The importance of

this measure is highlighted by the Canadian Broadcasting Corporation's recent reporting about the crowdfunding website, GiveSendGo.com, which indicated that the majority of the donations to the protests were made by donors outside of Canada.

Before the new measures, in respect of insurance, provinces would only be able to cancel or suspend policies for vehicles registered in that province. Protestors from different provinces would not be subject to, for example, the Government of Ontario's powers under its declaration of a state of emergency to cancel licenses of vehicles participating in blockades or prohibited assemblies. The emergency measures now require insurance companies to cancel or suspend the insurance of any vehicle or person while that person or vehicle is taking part in a prohibited assembly as defined under the new *Emergency Measures Regulations*.

iii. the adverse effects resulting from the impacts of the blockades on Canada's relationship with its trading partners, including the U.S., that are detrimental to the interests of Canada

The U.S. has expressed concerns related to the economic impacts of blockades at the borders, as well as possible impacts on violent extremist movements. During a call with President Joe Biden on February 11, 2022, the critical importance of resolving access to the Ambassador Bridge and other ports of entry as quickly as possible was discussed, given their role as vital bilateral trade corridors, and as essential to the extensive interconnections between our two countries.

Disruptions at ports of entry have significant impacts on trade with U.S. partners and the already fragile supply chain, and have resulted in temporary closures of manufacturing sites, job loss, and loss of revenues. One week of the Ambassador Bridge blockade alone is estimated to have caused a total economic loss of \$51 million for U.S. working people and businesses in the automotive and transportation industry. Consequently, the protests have been the cause of significant criticism and concern from U.S. political, industry and labour leaders.

The Governor of Michigan has issued several statements expressing her frustration with the ongoing protests and blockade and the damage they are doing to her state and constituents. Similar frustrations have been voiced by the General President of the International Brotherhood of Teamsters and the Canada-U.S. Business Association. The blockades and protests are of such concern to the U.S. government that the Department of Homeland Security Secretary has offered its assistance in ending the protests.

More generally, the protests and blockades are eroding confidence in Canada as a place to invest and do business. Politicians in Michigan have already speculated that disruptions in cross border trade may lead them to seek domestic, as opposed to Canadian, suppliers for automotive parts.

iv. the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the risk that this breakdown will continue as blockades continue and increase in number

Canada has a uniquely vulnerable trade and transportation system. Relative to global competitors, Canadian products travel significantly further, through challenging geography and climate conditions. Moreover, trade and transport within Canada, and between Canada and the U.S. is highly integrated.

The closure of, and threats against, crucial ports of entry along the Canada-U.S. border has not only had an adverse impact on Canada's economy, it has also imperiled the welfare of Canadians by disrupting the transport of crucial goods, medical supplies, food, and fuel across the U.S.-Canada border. A failure to keep international crossings open could result in a shortage of crucial medicine, food and fuel.

In addition to the blockades along the border, protesters attempted to impede access to the MacDonald-Cartier International Airport in Ottawa and threatened to blockade railway lines. The result of a railway blockade would be significant. As noted above, Canada's freight rail industry transports more than \$310 billion worth of goods each year on a network that runs from coast to coast. Canada's freight railways serve customers in almost every part of the Canadian economy: from manufacturing, to the agricultural, natural resource, wholesale and retail sectors.

v. the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians

The protests and blockades pose severe risks to public safety. While municipal and provincial authorities have taken decisive action in key affected areas, such as law enforcement activity at the Ambassador Bridge in Windsor, considerable effort was necessary to restore access to the site and will be required to maintain access.

There is significant evidence of illegal activity to date and the situation across the country remains concerning, volatile and unpredictable. The Freedom Convoy could also lead to an increase in the number of individuals who support ideologically motivated violent extremism (IMVE) and the prospect for serious violence. Proponents of IMVE are driven by a range of influences rather than a singular belief system. IMVE radicalization is more often caused by a combination of ideas and grievances resulting in a personalized worldview. The resulting worldview often centres on the willingness to incite, enable or mobilize violence.

On February 14, 2022, the RCMP arrested numerous individuals in Coutts, Alberta associated with a known IMVE group who had been engaged with the protests and seized a cache of firearms with a large quantity of ammunition, which indicates that there are elements within this movement that intend to engage in violence. Four of these individuals were charged with conspiracy to commit murder, in addition to other offences.

Since the convoy began, there has been a significant increase in the number and duration of incidents involving criminality associated with public order events related to anti-public health measures and there have been serious threats of violence assessed to be politically or ideologically motivated. Two bomb threats were made to Vancouver hospitals and numerous suspicious packages containing rhetoric that references the hanging of politicians and potentially noxious substances were sent to offices of Members of Parliament in Nova Scotia. While a link to the convoy has not yet been established in either case, these threats are consistent with an overall uptick in threats made against public officials and health care workers. A number of threats were noted regarding the Nova Scotia-New Brunswick border demonstration set for February 12, 2022, including a call to bring “arms” to respond to police if necessary. An Ottawa tow truck operator reported that he received death threats from protest supporters who mistakenly believed he provided assistance to the police.

The Sûreté du Québec (SQ) has been dealing with multiple threats arising from the protests. In early February, 2022, the SQ was called in to provide protection to the National Assembly in response to the convoy protests in Quebec City. Some individuals associated with the protests had threatened to take up arms and attack the National Assembly. This led to all parties at the National Assembly strongly denouncing all threats of violence. While that protest was not accompanied by violence, the threat has not ended; the protesters have stated that they plan to return on February 19, 2022. At the same time, the SQ is also dealing with threats of protests and blockades along Quebec’s border with New York State. This requires the SQ to deploy resources to establish checkpoints and ensure that crucial ports of entry remain open.

Other incidents which have occurred during the course of the blockades point to efforts by U.S.-based supporters of IMVE to join protests in Canada, or to conduct sympathetic disruptive blockades on the U.S. side of ports of entry. In some cases, individuals were openly carrying weapons. U.S.-based individuals, some openly espousing violent extremist rhetoric, have employed a variety of social media and other methods to express support for the ongoing blockades, to advocate for further disruptions, and to make threats of serious violence against Canadian law enforcement and the Government of Canada.

Several individuals with U.S. status have attempted to enter Canada with the stated purpose of joining the blockades. One high profile individual is known to have openly expressed opposition to COVID-19-related health measures, including vaccine mandates and has attempted to import

materials to Canada for the express purpose of supporting individuals participating in the blockades.

As of February 14, 2022, approximately 500 vehicles, most of them commercial trucks, were parked in Ottawa's downtown core. There have been reports of protesters engaging in hate crimes, breaking into businesses and residences, and threatening law enforcement and Ottawa residents.

Protesters have refused to comply with injunctions covering downtown Ottawa and the Ambassador Bridge and recent legislation enacted by the Ontario Government under the *Emergency Management and Civil Protection Act* (Ontario Regulation 71/22), which makes it illegal and punishable to block and impede the movement of goods, people and services along critical infrastructure. In Ottawa, the Ottawa Police Service has been unable to enforce the rule of law in the downtown core due to the overwhelming volume of protesters and the Police's ability to respond to other emergencies has been hampered by the flooding of Ottawa's 911 hotline, including by individuals from outside Canada. The occupation of the downtown core has also hindered the ability of emergency medical responders to attend medical emergencies in a timely way and has led to the cancellation of many medical appointments.

The inability of municipal and provincial authorities to enforce the law or control the protests may lead to a further reduction in public confidence in police and other Canadian institutions.

The situation in downtown Ottawa also impedes the proper functioning of the federal government and the ability of federal government officials and other workers to enter their workplaces in the downtown core safely.

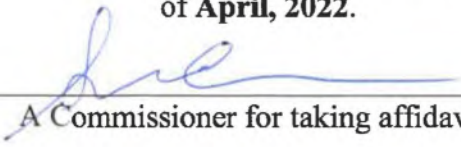
Furthermore, the protests jeopardize Canada's ability to fulfil its obligations under the *Vienna Convention on Diplomatic Relations* as a host of the diplomatic community and pose risks to foreign embassies, their staff and their access to their diplomatic premises.

Conclusion

The ongoing Freedom Convoy 2022 has created a critical, urgent, temporary situation that is national in scope and cannot effectively be dealt with under any other law of Canada. The blockades of the ports of entry have disrupted the transportation of crucial medicine, goods, fuel and food to Canadians and are causing significant adverse effects on Canada's economy, relationship with trading partners and supply chains. These trade disruptions, the increase in criminal activity, the occupation of downtown Ottawa and the threats of violence and presence of firearms at protests – along with the other reasons detailed above – constitute a public order emergency, an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency. The types of measures set out in the February 14, 2022 *Proclamation Declaring a Public Order Emergency* are necessary in order to supplement

provincial and territorial authorities to address the blockades and occupation and to restore public order, the rule of law and confidence in Canada's institutions. The measures have been carefully tailored such that any potential effects on rights protected under the *Canadian Charter of Rights and Freedoms* are reasonable and proportionate in the circumstances.

This is **Exhibit "B"** referred to
in the affidavit of
Steven Shragge
Affirmed before me this 4th day
of **April, 2022**.



A Commissioner for taking affidavits

CSB: 63497W

Minister of Public Safety



Ministre de la Sécurité publique

Report to the Houses of Parliament: *Emergencies Act* Consultations

February 16, 2022

Report to the Houses of Parliament: *Emergencies Act* Consultations

Background and the Requirement to Consult

On February 14, 2022, the Governor in Council declared a public order emergency under the *Emergencies Act*. Section 25 of the Act requires the Governor in Council to consult the Lieutenant Governor in Council of each province with respect to a proposal to declare a public order emergency. A report of these consultations must be laid before each House of Parliament within seven sitting days after the declaration is issued, in accordance with section 58 of the Act.

Engagement

Since the crisis began in late January, federal ministers and officials have continuously engaged provinces and territories, municipalities, and law enforcement agencies to assess the situation and to offer the support and assistance of the Government of Canada. Staff in the Prime Minister's Office and in various Minister's offices had ongoing communications with Premiers' offices and related ministers' offices throughout this period. Examples of engagement with provincial, municipal, and international partners include the following:

- There has been regular engagement with the City of Ottawa in relation to requests for federal support. This includes the request from the City of Ottawa for policing services (February 7, 2022 letter to the Prime Minister from the Ottawa Mayor and the Chair of the Ottawa Police Services Board).
 - The Prime Minister spoke to the Mayor of Ottawa on January 31 and February 8, 2022 about the illegal occupation in Ottawa.
 - Trilateral meetings took place on February 7, 8, and 10, 2022 with the President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness, the Minister of Public Safety, the Mayor of Ottawa, the City Manager of Ottawa, and the Chief of Ottawa Police Services. The Minister also spoke with the Solicitor General of Ontario on February 7, 2022 to discuss the work of the tripartite table.
 - Staff from the Office of the President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness have been in regular contact with the Office of the Premier of Ontario, as well as the Deputy Mayor of Ottawa.
 - The President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness also spoke with the President of the Canadian Association of Chiefs of Police on February 3 and 13, 2022 on support for the Ottawa Police Service.

- The President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness also spoke with the President of the Federation of Canadian Municipalities on February 3, 2022 about the situation in Ottawa.
- There has also been regular engagement with municipal and provincial officials concerning the Ambassador Bridge, including on a request for assistance received from the City of Windsor on February 9, 2022.
 - The Prime Minister spoke with the Premier of Ontario on February 9, 2022, and the Minister of Intergovernmental Affairs, Infrastructure and Communities spoke with the Premier of Ontario (February 10 and 11, 2022) regarding measures being taken by the Province in relation to the Ambassador Bridge.
 - The Prime Minister spoke to the Mayor of Windsor on February 10, 2022 about the blockade at the Ambassador Bridge.
 - The Prime Minister spoke with the President of the United States on February 11, 2022. The leaders discussed the critical importance of resolving access to the Ambassador Bridge and other ports of entry as quickly as possible.
 - The Minister of Transport spoke with Ontario's Minister of Transportation on February 9, 2022 about the blockades at border crossings. The Minister also spoke with the Mayor of Windsor on February 11, 2022 concerning the Ambassador Bridge.
 - Staff from the Office of the President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness and the Office of the Minister of Intergovernmental Affairs, Infrastructure and Communities have also been in regular contact with the City of Windsor.
- The Minister of Public Safety engaged the Premier of Ontario on February 9, 2022. The Minister has also been in regular contact with the Mayor of Ottawa and the Mayor of Windsor, including through the tripartite discussions. His staff have also engaged with both Mayors' offices. The Office of the Minister of Intergovernmental Affairs, Infrastructure and Communities engaged the Office of the Minister of Transportation of Ontario on February 7, 2022, and was in regular contact with the Office of the Premier of Ontario.
- The Office of the Prime Minister has also had ongoing discussions with the Office of the Premier of Ontario regarding the Ottawa, Windsor, and Sarnia blockades in the weeks leading up to the declaration. These conversations made it clear that more federal support was needed.

- There has been regular engagement with provincial officials concerning the Coutts port of entry, including the Province's request for assistance in relation to tow truck capacity (February 5, 2022 letter to Ministers of Public Safety and Emergency Preparedness from the Alberta Minister of Municipal Affairs).
 - The Minister of Public Safety engaged with the Premier of Alberta on February 2 and 9, 2022, and with the Premier and the Acting Minister of Justice and Solicitor General of Alberta on February 7, 2022. The Minister also engaged the Acting Minister of Justice and Solicitor General of Alberta on February 1, 5, and 9, 2022.
 - The Minister of Transport spoke with Alberta's Minister of Transportation on February 5 and 9, 2022.
 - The Minister of Intergovernmental Affairs, Infrastructure and Communities communicated with the Premier of Alberta on February 10 and 11, 2022.
- Ministers also engaged counterparts in other provinces:
 - The Minister of Transport spoke with Manitoba's Minister of Transportation and Infrastructure on February 12, 2022 concerning the Emerson port of entry.
 - The President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness spoke with the Minister of Public Safety and Solicitor General and Deputy Premier of British Columbia on February 5 and 13, 2022 to discuss protests in Victoria and how the federal government could assist if circumstances required, including mutual emergency legislation.
 - In support of his Cabinet colleagues and on behalf of the Prime Minister, the Minister of Intergovernmental Affairs, Infrastructure and Communities also communicated with the premiers of Nova Scotia (February 12, 2022), New Brunswick (February 12, 2022), Newfoundland and Labrador (February 12, 2022), and British Columbia (February 13, 2022) to ask about the current status and to offer federal support to help the provinces respond to the disruption and blockades.

Federal, provincial, and territorial (FPT) officials have also met on a multilateral and bilateral basis, including the following:

- Public Safety Canada officials shared information on the ongoing situation and the use of authorities. This included:

- The FPT Crime Prevention and Policing Committee (CPPC) held an ad hoc meeting on February 7, 2022 at the deputy minister level.
 - The FPT CPPC Committee met at the assistant deputy minister level on February 1 and 11, 2022.
 - Discussions took place with assistant deputy ministers from Ontario, Manitoba, and Alberta on February 13, 2022, and with Ontario and Manitoba on February 14, 2022.
- Transport Canada officials gathered and shared information with PT transport ministries on PT tools/actions being considered to manage the convoys, including potential infraction and enforcement regimes under the respective jurisdictions' motor vehicle safety legislation. This included:
 - The ADM-level table of the Council of Ministers Responsible for Transportation and Highway Safety met twice, on February 4 and 8, 2022.
 - Calls took place with Alberta and Ontario on February 5, 2022, with Ontario on February 6 and 7, 2022, and with Alberta on February 7, 2022.

The Government of Canada also engaged Indigenous leaders regarding the blockades. For example, the Minister of Crown-Indigenous Relations spoke with the National Chief of the Assembly of First Nations, the President of the Inuit Tapiriit Kanatami, the President of the Métis National Council, the Grand Chief of Akwesasne, and the Grand Chief of the Manitoba Southern Chief's Organization.

The decisions on next steps and to consult premiers on the *Emergencies Act* was informed by all of the federal ministerial and senior official engagement with provinces since the onset of the crisis.

Consultations on the Emergencies Act with First Ministers

The Prime Minister convened a First Ministers' Meeting on February 14, 2022, to consult premiers on whether to declare a public order emergency under the *Emergencies Act*. The Prime Minister was joined by the Minister of Intergovernmental Affairs, Infrastructure and Communities, the Minister of Justice and Attorney General of Canada, and the Minister of Public Safety. All premiers participated.

The Prime Minister explained why the declaration of a public order emergency might be necessary and formally consulted premiers. The Minister of Justice outlined potential measures the Government of Canada was contemplating to take under the *Emergencies Act* to supplement the measures in the provinces' jurisdiction and respond to the urgent and

unprecedented situation. The Prime Minister asked what measures could be supplemented through the *Emergencies Act* by using proportional, time-limited authorities.

Each premier was given the opportunity to provide his/her perspectives on the current situation – both nationally and in their own jurisdiction – and whether a declaration of public order emergency should be issued. A variety of views and perspectives were shared at the meeting. Some premiers indicated support for the proposed measures as necessary to resolve the current situation, noting they would be focused on targeted areas, time-limited, and would be subject to ongoing engagement. Other premiers did not feel the *Emergencies Act* was needed at this time, arguing that provincial and municipal governments have sufficient authority to address the situation in their respective jurisdictions. Some premiers expressed caution that invoking the *Emergencies Act* could escalate the situation.

While the views expressed at the First Ministers' Meeting were shared in confidence, premiers provided their perspectives in public statements following the First Ministers' Meeting.

- The Premier of Ontario said he supports the federal government's decision to provide additional tools to help police resolve the situation in the nation's capital. He said he expressed to the Prime Minister that these measures should be targeted and time-limited.
- The Premier of Newfoundland and Labrador said that he supports invoking the *Emergencies Act* on a time limited basis to bolster the response to deal with unacceptable behaviour within blockades, infringing on the rights of law-abiding Canadians.
- British Columbia's Minister of Public Safety and Solicitor General and Deputy Premier also said that the Province supported the use of the *Emergencies Act*, according to media reports.
- The Premier of Quebec said that he opposed the application of the *Emergencies Act* in Quebec, stating that municipal police and the Sûreté du Québec have control of the situation, and arguing that the use of the Act would be divisive.
- The Premier of Alberta tweeted that Alberta's Government is opposed to the invocation of the *Emergencies Act*, arguing that Alberta has all the legal tools and operational resources required to maintain order. He also expressed concern that invocation of the *Emergencies Act* could escalate a tense situation.
- The Premier of Saskatchewan issued the following tweet: "The illegal blockades must end, but police already have sufficient tools to enforce the law and clear the blockades, as they did over the weekend in Windsor. Therefore, Saskatchewan does not support the Trudeau government invoking the *Emergencies Act*. If the federal government does proceed with

this measure, I would hope it would only be invoked in provinces that request it, as the legislation allows.”

- The Premier of Manitoba issued a statement in which she noted that the situation in each province and territory is very different and she is not currently satisfied the *Emergencies Act* should be applied in Manitoba. She said that in her view, the sweeping effects and signals associated with the never-before-used *Emergencies Act* are not constructive in Manitoba, where caution must be taken against overreach and unintended negative consequences.
- The Premier of New Brunswick, the Premier of Nova Scotia, and the Premier of Prince Edward Island have also commented that they do not believe the *Emergencies Act* is necessary in their respective provinces, stating that policing services have sufficient authority to enforce the law.
- The premiers of Yukon, the Northwest Territories, and Nunavut provided feedback during the First Ministers' Meeting, although have not issued public statements.

During the First Ministers' Meeting, the Prime Minister emphasized that a final decision had not yet been made, and that the discussion amongst First Ministers would inform the Government of Canada's decision.

There was further engagement with provinces following the First Ministers' Meeting and prior to the Government of Canada's decision to declare a public order emergency on February 14, 2022:

- The Office of the Prime Minister spoke with the Office of the Premier of British Columbia, as Chair of the Council of the Federation, before the Government of Canada's decision was made on February 14, 2022 to offer briefings to premiers' offices, and to explain the role of provinces and territories under the *Emergencies Act*.
- The Minister of Intergovernmental Affairs, Infrastructure and Communities communicated with his Quebec counterpart on the *Emergencies Act*. The Minister of Canadian Heritage and Quebec Lieutenant also connected with Quebec's Deputy Premier and Minister of Public Safety and Quebec's Minister of Finance, and officials from the Prime Minister's Office engaged with the Office of the Premier of Quebec.
- The Minister of Intergovernmental Affairs, Infrastructure and Communities also engaged the Premier of Ontario and received feedback from the Premier of Saskatchewan.

- The Office of the Prime Minister spoke with the Office of the Premier of Ontario and the Office of the Premier of Newfoundland and Labrador on February 14, 2022 to explain the rationale and implementation of the *Emergencies Act*.

The Prime Minister considered all of the comments shared at the First Ministers' Meeting, as well as the many other sources of information and intelligence. He announced his intention to invoke the *Emergencies Act* with targeted, time-limited measures that would complement provincial and municipal authorities late in the day on February 14, 2022.

On February 15, 2022 the Prime Minister wrote to all premiers, outlining the reasons why the Government of Canada decided to declare a public order emergency and described the types of measures that would be available under the Act. The letter responded to issues raised during the discussion, particularly on whether the declaration of a public order emergency should apply nationally. For example, the letter emphasized that the measures would be applied to targeted areas; that measures would supplement, rather than replace, provincial and municipal authorities; that these are tools that could be employed by police of local jurisdiction, at their discretion; and that the Royal Canadian Mounted Police would be engaged only when requested by local authorities. The letter also emphasized the Government of Canada's strong interest in further engagement and collaboration with provinces and territories on these issues.

Next Steps

Consistent with the *Emergencies Act's* requirements, the Government of Canada is committed to ongoing consultation and collaboration with the provinces and territories to ensure that the federal response complements the efforts of their governments. Ongoing consultation will also be necessary should there be a need to modify or extend existing orders under the *Emergencies Act*.

Supported by their officials, Ministers engaged with their counterparts following the First Ministers' Meeting, and will continue to engage provinces and territories on an ongoing basis. They will be available to quickly respond to specific issues or situations, as they arise. More recent engagement includes:

- The Minister of Justice and Attorney General of Canada spoke with his Quebec counterpart on February 14, 2022 about the *Emergencies Act*.
- The Minister of Transport spoke with British Columbia's Minister of Transportation and Infrastructure on February 14, 2022 about blockades at border crossings. The Ministers discussed how the *Emergencies Act* can assist law enforcement.

- The Minister of Transport spoke with Nova Scotia's Minister of Public Works on February 15, 2022 and provided an overview of the emergency measures being taken under the *Emergencies Act*.
- On February 15, 2022, representatives from the Justice Minister's Office spoke with the Mayor of Winnipeg about the *Emergencies Act*. In a statement on February 15, 2022, the Mayor said he is grateful the federal government is "taking action to make additional tools available to assist with the quick and peaceful end to the unlawful occupations."
- A briefing for PT Deputy Ministers of Intergovernmental Affairs took place on February 15, 2022. A follow-up meeting is scheduled for February 17, 2022. FPT Deputy Ministers of Intergovernmental Affairs will continue to engage on these issues through regular and ongoing communications.
- A briefing is planned for February 16, 2022 for Assistant Deputy Ministers in provincial and territorial ministries of Public Safety, Transportation, the Solicitor General, and Intergovernmental Affairs.
- Collaboration through policing services will also continue. On February 15, 2022, the Interim Chief of the Ottawa Police Service stated that with new resources from policing partners and tools from both the provincial and federal governments, the Ottawa Police Service believe they now have the resources and power to bring a safe end to this occupation. Ottawa's Deputy Police Chief further commented that there is collaboration on the application of the *Emergencies Act* in Ottawa.
- There will be weekly engagement by the Minister of Public Safety with his provincial and territorial counterparts.

The Government of Canada will continue to gather and assess feedback through these ongoing engagements to assess the orders and regulations under the *Emergencies Act* and to ensure a coordinated and effective response on behalf of Canadians.

Annex:

- Letter from the Prime Minister to premiers

Annex: Letter from the Prime Minister to premiers

Dear Premier:

I would like to thank you for the productive conversation we had at the First Ministers' Meeting on February 14, 2022, where we consulted you on the declaration of a public order emergency under the *Emergencies Act*.

I recognize many Canadians, including myself, are frustrated with the pandemic, and with having our lives disrupted for two years. However, while some protestors have participated to demonstrate their fatigue and frustration with public health measures, this is no longer the motivation of many of the participants and organizers. We are seeing activity that is a threat to our democracy and that is undermining the public's trust in our institutions.

The Government of Canada believes firmly in the right to peaceful protest. But as we discussed, the activities taking place across the country have gone well beyond peaceful protest. These are organized events, and the situation is very volatile. While this may have started in Ottawa, we are seeing flare-ups in almost every jurisdiction.

We are facing significant economic disruptions, with the breakdown of supply chains. This is costing Canadians their jobs and undermining our economic and national security, with potentially significant impacts on the health and safety of Canadians. It is affecting Canada's reputation internationally, hurting trade and commerce, and undermining confidence and trust in our institutions.

Given that this situation is escalating, we each have to look at all possible measures to resolve the current challenges as quickly as possible. We believe that we have reached the point where there is a national emergency arising from threats to Canada's security. That is why the Government of Canada has determined it is necessary to take action to protect Canadians and safeguard our economy by declaring a public order emergency under the *Emergencies Act*.

The declaration of a public order emergency serves as authority for Canada to enact measures under paragraph 19(1) of the *Emergencies Act*. During our

call, Minister Lametti highlighted six types of temporary, time-limited measures that could be adopted under the *Emergencies Act*:

1. Regulation and prohibition of public assemblies that lead to a breach of the peace other than lawful advocacy, protest, or dissent

What we are seeing in Ottawa and at the Ambassador Bridge are not lawful protests. Examples of measures could include: prohibiting minors from participating in an unlawful activity; prohibiting foreign nationals from entering Canada to participate in an illegal gathering; removing foreign nationals from Canada when appropriate; and adding to the list of offences that qualify as inadmissible criteria for entry into Canada.

2. Designating and securing places where blockades are to be prohibited

This could include geographically limited application at borders, approaches to borders, other critical infrastructure, or the City of Ottawa.

3. Directing persons to render essential services to relieve impacts of blockades on Canada's economy

This could include tow trucks and their drivers, for compensation.

4. Authorizing or directing financial institutions to render essential services to relieve impact of blockades

This could include regulating and prohibiting the use of property to fund or support the blockades.

5. Measures enabling the RCMP to enforce municipal by laws and provincial offences where required, and if asked by local authorities

All measures enacted pursuant to the *Emergencies Act* would be enforceable by municipal and provincial police services; the RCMP can contribute if asked to do so.

6. The imposition of fines or imprisonment for contravention of any order or regulation made under section 19 of the *Emergencies Act*

Our Government recognizes the importance of coordinating with provinces, territories, and municipalities to ensure the safety and security of Canadians.

Targeted, time-limited, and proportional measures under the *Emergencies Act* would provide further support to police within your jurisdiction. This is not about displacing provincial or territorial jurisdiction, or superseding measures you have in place. This is about supplementing measures in your jurisdiction with additional legal authorities to give local law enforcement the maximum leverage to be able to uphold the rule of law and deal with the situation we are facing. We are not proposing to have the RCMP or any other authority supplant local law enforcement; rather, we wish to expand the range of tools available to law enforcement at all levels. We want to ensure that the federal response complements the efforts that your governments and municipalities continue to make to bring stability to the nation. The federal government continues to stand by to assist with resource asks, if and when required, to deal with the current situation.

I appreciate the views you shared yesterday on our call and I can assure you that they have been taken into account in the approaches we are taking, and will also inform the consultation report which will be tabled with the motion confirming the declaration. In addition to our discussions to date, briefings and discussions amongst officials in the coming days will also be useful. Consultation and coordination will continue to be essential on implementation which is consistent with the requirements of the *Emergencies Act* for consultations.

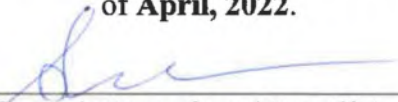
I would like to thank you, once again, for the discussion we have had on the *Emergencies Act* and I look forward to continue to get your perspective through this ongoing, consultative process. The federal government will continuously monitor and assess the implementation of the powers and authorities under the *Emergencies Act*, and stands ready to be able to respond to any need that emerges from premiers. The Minister of Public Safety will also have regular updates with his counterparts. Please follow up with me, or with Ministers Lametti, Mendicino, or LeBlanc, should you wish to discuss these matters further.

I am forwarding, for their information, a copy of this letter to David Lametti, Minister of Justice and Attorney General of Canada; Chrystia Freeland, Deputy Prime Minister and Minister of Finance; William Sterling Blair,

President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness; Marco E. L. Mendicino, Minister of Public Safety; and Dominic LeBlanc, Minister of Intergovernmental Affairs, Infrastructure and Communities.

Sincerely,

This is **Exhibit "C"** referred to
in the affidavit of
Steven Shragge
Affirmed before me this 4th day
of **April, 2022**.



A Commissioner for taking affidavits

LSO 63497W

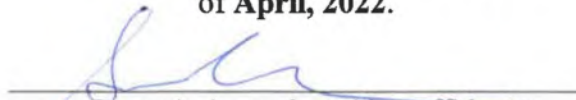
Motion for Confirmation of a Declaration of Emergency

That, pursuant to section 58 of the *Emergencies Act*, this House confirm the declaration of a public order emergency proclaimed on February 14, 2022.

Motion de ratification de la déclaration de situation de crise

Que, conformément à l'article 58 de la *Loi sur les mesures d'urgence*, cette Chambre ratifie la déclaration d'état d'urgence proclamée le 14 février 2022.

This is **Exhibit "D"** referred to
in the affidavit of
Steven Shragge
Affirmed before me this 4th day
of **April, 2022**.



A Commissioner for taking affidavits

LSO: 63497W



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

44th PARLIAMENT, 1st SESSION

44^e LÉGISLATURE, 1^{re} SESSION

JOURNALS

No. 36

Monday, February 21, 2022

7:00 a.m.

JOURNAUX

N° 36

Le lundi 21 février 2022

7 heures

The clerk informed the House of the unavoidable absence of the Speaker.

Whereupon, Mrs. Hughes (Algoma—Manitoulin—Kapusking), Assistant Deputy Speaker and Deputy Chair of Committees of the Whole, took the chair, pursuant to Standing Order 8.

PRAYER

STATUTORY ORDER

The House resumed consideration of the motion of Mr. Mendicino (Minister of Public Safety), seconded by Mr. Trudeau (Prime Minister), — That, pursuant to section 58 of the Emergencies Act, this House confirm the declaration of a public order emergency proclaimed on February 14, 2022.

The debate continued.

STATEMENTS BY MEMBERS

Pursuant to Standing Order 31, members made statements.

ORAL QUESTIONS

Pursuant to Standing Order 30(5), the House proceeded to Oral Questions.

DAILY ROUTINE OF BUSINESS

Tabling of Documents

Pursuant to Standing Order 32(2), Ms. Dabrusin (Parliamentary Secretary to the Minister of Natural Resources and to the Minister of Environment and Climate Change) laid upon the table, — Document entitled "Green Municipal Fund Annual Report 2020-2021". — Sessional Paper No. 8525-441-8.

Le greffier informe la Chambre de l'absence inévitable du Président.

Sur ce, M^{me} Hughes (Algoma—Manitoulin—Kapusking), vice-présidente adjointe de la Chambre et vice-présidente des comités pléniers, assume la présidence, conformément à l'article 8 du Règlement.

PRIÈRE

ORDRE LÉGAL

La Chambre reprend l'étude de la motion de M. Mendicino (ministre de la Sécurité publique), appuyé par M. Trudeau (premier ministre), — Que, conformément à l'article 58 de la Loi sur les mesures d'urgence, cette Chambre ratifie la déclaration d'état d'urgence proclamée le 14 février 2022.

Le débat se poursuit.

DÉCLARATIONS DE DÉPUTÉS

Conformément à l'article 31 du Règlement, des députés font des déclarations.

QUESTIONS ORALES

Conformément à l'article 30(5) du Règlement, la Chambre procède à la période de questions orales.

AFFAIRES COURANTES ORDINAIRES

Dépôt de documents

Conformément à l'article 32(2) du Règlement, M^{me} Dabrusin (secrétaire parlementaire du ministre des Ressources naturelles et du ministre de l'Environnement et du Changement climatique) dépose sur le bureau, — Document intitulé « Rapport annuel 2020-2021 du Fonds municipal vert ». — Document parlementaire n° 8525-441-8.

Presenting Reports from Committees

Ms. Chagger (Waterloo), from the Standing Committee on Procedure and House Affairs, presented the third report of the committee (items to remain votable). — Sessional Paper No. 8510-441-23.

Pursuant to Standing Order 91.1(2), the report was deemed concurred in.

STATUTORY ORDER

The House resumed consideration of the motion of Mr. Mendicino (Minister of Public Safety), seconded by Mr. Trudeau (Prime Minister), — That, pursuant to section 58 of the Emergencies Act, this House confirm the declaration of a public order emergency proclaimed on February 14, 2022.

The debate continued.

At 7:30 p.m., pursuant to order made Thursday, February 17, 2022, the Assistant Deputy Speaker interrupted the proceedings.

The question was put on the motion and it was agreed to on the following division:

(Division No. 32 — Vote n° 32)

YEAS: 185, NAYS: 151

Présentation de rapports de comités

M^{me} Chagger (Waterloo), du Comité permanent de la procédure et des affaires de la Chambre, présente le troisième rapport du Comité (affaires qui demeurent votables). — Document parlementaire n° 8510-441-23.

Conformément à l'article 91.1(2) du Règlement, le rapport est réputé adopté.

ORDRE LÉGAL

La Chambre reprend l'étude de la motion de M. Mendicino (ministre de la Sécurité publique), appuyé par M. Trudeau (premier ministre), — Que, conformément à l'article 58 de la Loi sur les mesures d'urgence, cette Chambre ratifie la déclaration d'état d'urgence proclamée le 14 février 2022.

Le débat se poursuit.

À 19 h 30, conformément à l'ordre adopté le jeudi 17 février 2022, la vice-présidente adjointe interrompt les délibérations.

La motion, mise aux voix, est agréée par le vote suivant :

POUR : 185, CONTRE : 151

YEAS — POUR

Aldag
Anandasangaree
Ashton
Bains
Beech
Bittle
Blois
Brière
Chagger
Chen

Cormier
Davies
Diab
Duclos
Ehsassi
Fillmore
Fragiskatos
Gaheer
Gerretsen
Hajdu
Holland
Hutchings
Jaczek
Jowhari
Khalid
Kwan
Lamoureux
LeBlanc
Longfield
MacGregor
Masse
McDonald (Avalon)

Alghabra
Angus
Atwin
Baker
Bendayan
Blaikie
Boissonnault
Cannings
Chahal
Chiang

Coteau
Desjarlais
Dong
Duguid
El-Khoury
Fisher
Fraser
Garneau
Gould
Hanley
Housefather
Iacono
Johns
Julian
Khera
Lalonde
Lapointe
Lebouthillier
Louis (Kitchener—Conestoga)
MacKinnon (Gatineau)
Mathysen
McGuinty

Ali
Arseneault
Bachrach
Barron
Bennett
Blair
Boulerice
Carr
Champagne
Collins (Hamilton East—Stoney Creek)
Dabrusin
Dhaliwal
Drouin
Duncan (Etobicoke North)
Erskine-Smith
Fonseca
Freeland
Garrison
Green
Hardie
Hughes
Idlout
Joly
Kayabaga
Koutrakis
Lambropoulos
Lattanzio
Lightbound
MacAulay (Cardigan)
Maloney
May (Cambridge)
McKay

Anand
Arya
Badawey
Battiste
Bibeau
Blaney
Bradford
Casey
Chatel
Collins (Victoria)

Damoff
Dhillon
Dubourg
Dzerowicz
Fergus
Fortier
Fry
Gazan
Guilbeault
Hepfner
Hussen
Ien
Jones
Kelloway
Kusmierczyk
Lametti
Lauzon
Long
MacDonald (Malpeque)
Martinez Ferrada
May (Saanich—Gulf Islands)
McKinnon (Coquitlam—Port Coquitlam)

McLeod	McPherson	Mendès	Mendicino
Miao	Miller	Morrissey	Murray
Naqvi	Ng	Noormohamed	O'Connell
Oliphant	O'Regan	Petitpas Taylor	Powlowski
Qualtrough	Robillard	Rodriguez	Rogers
Romanado	Sahota	Sajjan	Saks
Samson	Sarai	Scarpaleggia	Schiefke
Serré	Sgro	Shanahan	Sheehan
Sidhu (Brampton East)	Sidhu (Brampton South)	Singh	Sorbara
Spengemann	St-Onge	Sudds	Tassi
Taylor Roy	Thompson	Trudeau	Turnbull
Valdez	Van Bynen	van Koeverden	Vandal
Vandenbeld	Virani	Vuong	Weiler
Wilkinson	Yip	Zahid	Zarrillo
Zuberi — 185			

NAYS — CONTRE

Abouttaif	Aitchison	Albas	Allison
Arnold	Baldinelli	Barlow	Barrett
Barsalou-Duval	Beaulieu	Benzen	Bergen
Bergeron	Berthold	Bérubé	Bezan
Blanchet	Blanchette-Joncas	Block	Bragdon
Brassard	Brock	Brunelle-Duceppe	Calkins
Caputo	Carrie	Chabot	Chambers
Champoux	Chong	Cooper	Dalton
Dancho	Davidson	DeBellefeuille	Deltell
Desbiens	Desilets	Doherty	Dowdall
Dreeshen	Duncan (Stormont—Dundas— South Glengarry)	Ellis	Epp
Falk (Battlefords—Lloydminster)	Falk (Provencher)	Fast	Ferreri
Findlay	Fortin	Gallant	Garon
Gaudreau	Généreux	Genuis	Gill
Gladu	Godin	Goodridge	Gourde
Gray	Hallan	Hoback	Jeneroux
Kelly	Kitchen	Kmiec	Kram
Kramp-Neuman	Kurek	Kusie	Lake
Lantsman	Larouche	Lawrence	Lehoux
Lemire	Lewis (Essex)	Lewis (Haldimand—Norfolk)	Liepert
Lloyd	Lobb	MacKenzie	Maguire
Martel	Mazier	McCauley (Edmonton West)	McLean
Melillo	Michaud	Moore	Morantz
Morrice	Morrison	Motz	Muys
Nater	Normandin	O'Toole	Patzer
Paul-Hus	Pauzé	Perkins	Perron
Plamondon	Poillievre	Rayes	Redekopp
Reid	Rempel Garner	Richards	Roberts
Rood	Ruff	Savard-Tremblay	Scheer
Schmale	Seeback	Shields	Shipley
Simard	Sinclair-Desgagné	Small	Soroka
Steinley	Ste-Marie	Stewart	Strahl
Stubbs	Thériault	Therrien	Thomas
Tochor	Tolmie	Trudel	Uppal
Van Popta	Vecchio	Vidal	Vien
Viersen	Vignola	Villemure	Vis
Wagantall	Warkentin	Waugh	Webber
Williams	Williamson	Zimmer — 151	

PAIRED — PAIRÉS

Nil—Aucun

RETURNS AND REPORTS DEPOSITED WITH THE CLERK OF THE HOUSE

Pursuant to Standing Order 32(1), papers deposited with the Clerk of the House were laid upon the table as follows:

— by Mr. Champagne (Minister of Innovation, Science and Industry) — List of Commissions issued for the year 2021, pursuant to the Public Officers Act, R.S. 1985, c. P-31, s. 4. — Sessional Paper No. 8560-441-413-01. (*Pursuant to Standing Order 32(5), permanently referred to the Standing Committee on Industry and Technology*)

— by Mr. Wilkinson (Minister of Natural Resources) — Report on the administration and enforcement of the Energy Efficiency Act for the fiscal year ended March 31, 2021, pursuant to the Energy Efficiency Act, S.C. 1992, c. 36, s. 36. — Sessional Paper No. 8560-441-375-01. (*Pursuant to Standing Order 32(5), permanently referred to the Standing Committee on Natural Resources*)

ADJOURNMENT

At 8:23 p.m., pursuant to order made Thursday, February 17, 2022, the Assistant Deputy Speaker adjourned the House until Monday, February 28, 2022, at 11:00 a.m., pursuant to order made Thursday, February 17, 2022.

ÉTATS ET RAPPORTS DÉPOSÉS AUPRÈS DU GREFFIER DE LA CHAMBRE

Conformément à l'article 32(1) du Règlement, des documents remis au greffier de la Chambre sont déposés sur le bureau de la Chambre comme suit :

— par M. Champagne (ministre de l'Innovation, des Sciences et de l'Industrie) — Liste des commissions émises durant l'année 2021, conformément à la Loi sur les fonctionnaires publics, L.R. 1985, ch. P-31, art. 4. — Document parlementaire n° 8560-441-413-01. (*Conformément à l'article 32(5) du Règlement, renvoi en permanence au Comité permanent de l'industrie et de la technologie*)

— par M. Wilkinson (ministre des Ressources naturelles) — Rapport sur l'administration et l'application de la Loi sur l'efficacité énergétique pour l'exercice terminé le 31 mars 2021, conformément à la Loi sur l'efficacité énergétique, L.C. 1992, ch. 36, art. 36. — Document parlementaire n° 8560-441-375-01. (*Conformément à l'article 32(5) du Règlement, renvoi en permanence au Comité permanent des ressources naturelles*)

AJOURNEMENT

À 20 h 23, conformément à l'ordre adopté le jeudi 17 février 2022, la vice-présidente adjointe ajourne la Chambre jusqu'au lundi 28 février 2022, à 11 heures, conformément à l'ordre adopté le jeudi 17 février 2022.

This is **EXHIBIT “O”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "Janani S", positioned above a horizontal line.

Janani Shanmuganathan



Department of Justice
Canada

Ministère de la Justice
Canada

Prairie Region
National Litigation Sector
300, 10423 – 101 Street NW
Edmonton, AB T5H 0E7

Région des Prairies
Secteur national du contentieux
10423, rue 101 Nord-Ouest, bureau 300
Edmonton (Alberta) T5H 0E7

Telephone/Téléphone: (780) 495-8040
Fax /Télécopieur: (780) 495-2964
Email/Courriel: Kathleen.Kohlman@JUSTICE.GC.CA

Via Email

Our File Number: LEX-500082292

April 4, 2022

Federal Court
Thomas D'Arcy McGee Building
Ottawa, Ontario
K1A 0H9

Dear Registrar/Administrator:

Re: *Jeremiah Jost et al v Attorney General of Canada et al*
Court file no. T-382-22

Please place this letter before Prothonotary Milczynski.

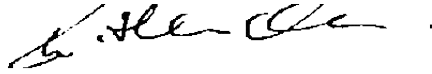
Regarding the letter sent this morning by counsel for Canadian Constitution Foundation (CCF), we do not believe that this matter has any urgency. Any scheduling may be dealt with at the case management conference currently scheduled for April 11th. We also confirm that in light of the s. 39 certificate we cannot and will not share any of the material on a counsels' eyes only basis as suggested by counsel for the CCF. The issue of providing access to the applicant's counsel has been resolved by the issuance of the s. 39 certificate. Section 39 is clear: a court shall refuse disclosure of the information upon certification by the Clerk. The position of the AGC is that the certificate is valid and that any disclosure of the information certified by the Clerk is barred by the statute.

We are serving and filing three affidavits today in accordance with the previous direction to do so by April 4th. We are doing so reserving the ability to file additional evidence, including expert evidence as we noted in our letter last week requesting additional time. We may have additional evidence after the outcome of the current motions to amend Notices of Application, our responding cross-motions, and any additional motion CCF may bring regarding Canada's s. 39 certificate.

We also take the position that any such s. 39 challenge is not appropriate until the Court has determined the motion on the CCF's proposed amendment to its Notice of Application

and the AGC's response to it.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Kohlman', followed by a period.

Kathleen Kohlman
Senior Counsel
Prairie Region
Department of Justice Canada

This is **EXHIBIT “P”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "Janani S".

Janani Shanmuganathan

Canada Gazette

Part II



Gazette du Canada

Partie II

OTTAWA, TUESDAY, FEBRUARY 15, 2022

OTTAWA, LE MARDI 15 FÉVRIER 2022

Registration
SOR/2022-20 February 15, 2022

EMERGENCIES ACT

Proclamation Declaring a Public Order Emergency

Mary May Simon

[L.S.]

Canada

ELIZABETH THE SECOND, by the Grace of God of the
United Kingdom, Canada and Her other Realms and
Territories QUEEN, Head of the Commonwealth, De-
fender of the Faith.

François Daigle
Deputy Attorney General of Canada

Great Seal of Canada

TO ALL WHOM these presents shall come or whom the
same may in any way concern,

GREETING:

A Proclamation

Whereas the Governor in Council believes, on reasonable
grounds, that a public order emergency exists and neces-
sitates the taking of special temporary measures for deal-
ing with the emergency;

Whereas the Governor in Council has, before declar-
ing a public order emergency and in accordance with
subsection 25(1) of the *Emergencies Act*, consulted the
Lieutenant Governor in Council of each province, the

Enregistrement
DORS/2022-20 Le 15 février 2022

LOI SUR LES MESURES D'URGENCE

Proclamation déclarant une urgence d'ordre public

Mary May Simon

[S.L.]

Canada

ELIZABETH DEUX, par la Grâce de Dieu, REINE du
Royaume-Uni, du Canada et de ses autres royaumes
et territoires, Chef du Commonwealth, Défenseur de
la Foi.

Le sous-procureur général du Canada,
François Daigle

Grand sceau du Canada

À TOUS CEUX à qui les présentes parviennent ou qu'elles
peuvent de quelque manière concerner,

SALUT:

Proclamation

Attendu que la gouverneure en conseil croit, pour des
motifs raisonnables, qu'il se produit un état d'urgence jus-
tifiant en l'occurrence des mesures extraordinaires à titre
temporaire;

Attendu que la gouverneure en conseil a, conformément
au paragraphe 25(1) de la *Loi sur les mesures d'urgence*,
consulté le lieutenant-gouverneur en conseil de chaque
province, les commissaires du Yukon et des Territoires du

Commissioners of Yukon and the Northwest Territories, acting with consent of their respective Executive Councils, and the Commissioner of Nunavut;

Now Know You that We, by and with the advice of Our Privy Council for Canada, pursuant to subsection 17(1) of the *Emergencies Act*, do by this Our Proclamation declare that a public order emergency exists throughout Canada and necessitates the taking of special temporary measures for dealing with the emergency;

And We do specify the emergency as constituted of

- (a) the continuing blockades by both persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada,
- (b) the adverse effects on the Canadian economy — recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19) — and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings,
- (c) the adverse effects resulting from the impacts of the blockades on Canada's relationship with its trading partners, including the United States, that are detrimental to the interests of Canada,
- (d) the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the risk that this breakdown will continue as blockades continue and increase in number, and
- (e) the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians;

And We do further specify that the special temporary measures that may be necessary for dealing with the emergency, as anticipated by the Governor in Council, are

- (a) measures to regulate or prohibit any public assembly — other than lawful advocacy, protest or dissent — that may reasonably be expected to lead to a breach of the peace, or the travel to, from or within any specified area, to regulate or prohibit the use of specified property, including goods to be used with respect to a

Nord-Ouest agissant avec l'agrément de leur conseil exécutif respectif et le commissaire du Nunavut avant de faire la déclaration de l'état d'urgence,

Sachez que, sur et avec l'avis de Notre Conseil privé pour le Canada, Nous, en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*, par Notre présente proclamation, déclarons qu'il se produit dans tout le pays un état d'urgence justifiant en l'occurrence des mesures extraordinaires à titre temporaire;

Sachez que Nous décrivons l'état d'urgence comme prenant la forme suivante :

- a) les blocages continus mis en place par des personnes et véhicules à différents endroits au Canada et les menaces continues proférées en opposition aux mesures visant à mettre fin aux blocages, notamment par l'utilisation de la force, lesquels blocages ont un lien avec des activités qui visent à favoriser l'usage de la violence grave ou de menaces de violence contre des personnes ou des biens, notamment les infrastructures essentielles, dans le but d'atteindre un objectif politique ou idéologique au Canada,
- b) les effets néfastes sur l'économie canadienne — qui se relève des effets de la pandémie de la maladie à coronavirus 2019 (COVID-19) — et les menaces envers la sécurité économique du Canada découlant des blocages d'infrastructures essentielles, notamment les axes commerciaux et les postes frontaliers internationaux,
- c) les effets néfastes découlant des blocages sur les relations qu'entretient le Canada avec ses partenaires commerciaux, notamment les États-Unis, lesquels effets sont préjudiciables aux intérêts du Canada,
- d) la rupture des chaînes de distribution et de la mise à disposition de ressources, de services et de denrées essentiels causée par les blocages existants et le risque que cette rupture se perpétue si les blocages continuent et augmentent en nombre,
- e) le potentiel d'augmentation du niveau d'agitation et de violence qui menaceraient davantage la sécurité des Canadiens;

Sachez que Nous jugeons les mesures d'intervention ci-après nécessaires pour faire face à l'état d'urgence :

- a) des mesures pour réglementer ou interdire les assemblées publiques — autre que les activités licites de défense d'une cause, de protestation ou de manifestation d'un désaccord — dont il est raisonnable de penser qu'elles auraient pour effet de troubler la paix, ou les déplacements à destination, en provenance ou à l'intérieur d'une zone désignée, pour réglementer ou

blockade, and to designate and secure protected places, including critical infrastructure,

(b) measures to authorize or direct any person to render essential services of a type that the person is competent to provide, including services related to removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade anywhere in Canada, to relieve the impacts of the blockades on Canada's public and economic safety, including measures to identify those essential services and the persons competent to render them and the provision of reasonable compensation in respect of services so rendered,

(c) measures to authorize or direct any person to render essential services to relieve the impacts of the blockade, including to regulate or prohibit the use of property to fund or support the blockade, to require any crowdfunding platform and payment processor to report certain transactions to the Financial Transactions and Reports Analysis Centre of Canada and to require any financial service provider to determine whether they have in their possession or control property that belongs to a person who participates in the blockade,

(d) measures to authorize the Royal Canadian Mounted Police to enforce municipal and provincial laws by means of incorporation by reference,

(e) the imposition of fines or imprisonment for contravention of any order or regulation made under section 19 of the *Emergencies Act*; and

(f) other temporary measures authorized under section 19 of the *Emergencies Act* that are not yet known.

In testimony whereof, We have caused this Our Proclamation to be published and the Great Seal of Canada to be affixed to it.

WITNESS:

Our Right Trusty and Well-beloved Mary May Simon, Chancellor and Principal Companion of Our Order of Canada, Chancellor and Commander of Our Order of Military Merit, Chancellor and Commander of Our Order of Merit of the Police Forces, Governor General and Commander-in-Chief of Canada.

interdire l'utilisation de biens désignés, notamment les biens utilisés dans le cadre d'un blocage, et pour désigner et aménager des lieux protégés, notamment les infrastructures essentielles,

b) des mesures pour habilitier toute personne compétente à fournir des services essentiels ou lui ordonner de fournir de tels services, notamment l'enlèvement, le remorquage et l'entreposage de véhicules, d'équipement, de structures ou de tout autre objet qui font partie d'un blocage n'importe où au Canada, afin de pallier les effets des blocages sur la sécurité publique et économique du Canada, notamment des mesures pour cerner ces services essentiels et les personnes compétentes à les fournir, ainsi que le versement d'une indemnité raisonnable pour ces services,

c) des mesures pour habilitier toute personne à fournir des services essentiels ou lui ordonner de fournir de tels services afin de pallier les effets des blocages, notamment des mesures pour réglementer ou interdire l'usage de biens en vue de financer ou d'appuyer les blocages, pour exiger de toute plateforme de sociofinancement et de tout fournisseur de traitement de paiement qu'il déclare certaines opérations au Centre d'analyse des opérations et déclarations financières du Canada et pour exiger de tout fournisseur de services financiers qu'il vérifie si des biens qui sont en sa possession ou sous son contrôle appartiennent à une personne qui participe à un blocage,

d) des mesures pour habilitier la Gendarmerie royale du Canada à appliquer les lois municipales et provinciales au moyen de l'incorporation par renvoi,

e) en cas de contravention aux décrets ou règlements pris au titre de l'article 19 de la *Loi sur les mesures d'urgence*, l'imposition d'amendes ou de peines d'emprisonnement,

f) toute autre mesure d'intervention autorisée par l'article 19 de la *Loi sur les mesures d'urgence* qui est encore inconnue.

En foi de quoi, Nous avons pris et fait publier Notre présente Proclamation et y avons fait apposer le grand sceau du Canada.

TÉMOIN :

Notre très fidèle et bien-aimée Mary May Simon, chancelière et compagnon principal de Notre Ordre du Canada, chancelière et commandeur de Notre Ordre du mérite militaire, chancelière et commandeur de Notre Ordre du mérite des corps policiers, gouverneure générale et commandante en chef du Canada.

At Our Government House, in Our City of Ottawa, this
fourteenth day of February in the year of Our Lord two
thousand and twenty-two and in the seventy-first year of
Our Reign.

BY COMMAND,

Simon Kennedy
Deputy Registrar General of Canada

À Notre hôtel du gouvernement, en Notre ville d'Ottawa,
ce quatorzième jour de février de l'an de grâce deux mille
vingt-deux, soixante et onzième de Notre règne.

PAR ORDRE,

Le sous-registraire général du Canada,
Simon Kennedy

This is **EXHIBIT “Q”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "JananiS".

Janani Shanmuganathan

Registration
SOR/2022-21 February 15, 2022

EMERGENCIES ACT

P.C. 2022-107 February 15, 2022

Whereas the Governor in Council has, by a proclamation made pursuant to subsection 17(1) of the *Emergencies Act*^a, declared that a public order emergency exists;

And whereas the Governor in Council believes on reasonable grounds, that the regulation or prohibition of public assemblies in the areas referred to in these Regulations are necessary;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 19(1) of the *Emergencies Act*^a, makes the annexed *Emergency Measures Regulations*.

Emergency Measures Regulations

Interpretation

1 The following definitions apply to these Regulations

Act means the *Emergencies Act* (*Loi*)

critical infrastructure means the following places, including any land on which they are located:

- (a) airports, aerodromes, heliports, harbours, ports, piers, lighthouses, canals, railway stations, railways, tramway lines, bus stations, bus depots and truck depots;
- (b) infrastructure for the supply of utilities such as water, gas, sanitation and telecommunications;
- (c) international and interprovincial bridges and crossings;
- (d) power generation and transmission facilities;
- (e) hospitals and locations where COVID-19 vaccines are administered;
- (f) trade corridors and international border crossings, including ports of entry, ferry terminals, customs offices, bonded warehouses, and sufferance warehouses. (*infrastructures essentielles*)

^a R.S., c. 22 (4th Supp.)

Enregistrement
DORS/2022-21 Le 15 février 2022

LOI SUR LES MESURES D'URGENCE

C.P. 2022-107 Le 15 février 2022

Attendu que la gouverneure en conseil a, par proclamation prise en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*^a, déclaré qu'il se produit un état d'urgence;

Attendu que la gouverneure en conseil croit, pour des motifs raisonnables, qu'il est fondé de réglementer ou d'interdire des assemblées publiques dans les endroits visés,

À ces causes, sur recommandation du ministre de la Sécurité publique et de la Protection civile et en vertu du paragraphe 19(1) de la *Loi sur les mesures d'urgence*^a, Son Excellence la Gouverneure générale en conseil prend le *Règlement sur les mesures d'urgences*, ci-après.

Règlement sur les mesures d'urgences

Définitions

1 Les définitions qui suivent s'appliquent au présent règlement.

agent de la paix Tout officier de police ou agent de police employé à la préservation et au maintien de la paix publique. (*peace officer*)

étranger S'entend au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés*. (*foreign national*)

infrastructures essentielles Les lieux ci-après, y compris le terrain sur lequel ils sont situés :

- a) les aéroports, aérodromes, héliports, havres, ports, gares maritimes, jetées, phares, canaux, gares ferroviaires et chemins de fer, terminus d'autobus et garages d'autobus ou de camions;
- b) les infrastructures servant à la fourniture de services publics tels que l'eau, le gaz, l'assainissement et les télécommunications;
- c) les ponts et les ouvrages de franchissement internationaux et interprovinciaux;
- d) les installations de production et de transmission d'énergie;

^a L.R., ch. 22 (4e suppl.)

foreign national has the same meaning as in subsection 2(1) of the *Immigration and Refugee Protection Act* (*étranger*)

peace officer means a police officer, police constable, constable, or other person employed for the preservation and maintenance of the public peace (*agent de la paix*)

protected person has the same meaning as in subsection 95(2) of the *Immigration and Refugee Protection Act* (*personne protégée*)

Prohibition — public assembly

2 (1) A person must not participate in a public assembly that may reasonably be expected to lead to a breach of the peace by:

(a) the serious disruption of the movement of persons or goods or the serious interference with trade;

(b) the interference with the functioning of critical infrastructure; or

(c) the support of the threat or use of acts of serious violence against persons or property.

Minor

(2) A person must not cause a person under the age of eighteen years to participate in an assembly referred to in subsection (1).

Prohibition — entry to Canada — foreign national

3 (1) A foreign national must not enter Canada with the intent to participate in or facilitate an assembly referred to in subsection 2(1).

Exemption

(2) Subsection (1) does not apply to

(a) a person registered as an Indian under the *Indian Act*;

(b) a person who has been recognized as a Convention refugee or a person in similar circumstances to those of a Convention refugee within the meaning of subsection 146(1) of the *Immigration and Refugee Protection Regulations* who is issued a permanent resident visa under subsection 139(1) of those regulations;

(c) a person who has been issued a temporary resident permit within the meaning of subsection 24(1) of the *Immigration and Refugee Protection Act* and who seeks to enter Canada as a protected temporary resident under subsection 151.1(2) of the *Immigration and Refugee Protection Regulations*;

e) les hôpitaux et les endroits où sont administrés les vaccins contre la COVID-19;

f) les axes commerciaux et les postes frontaliers internationaux, y compris les points d'entrée, les bureaux de douanes, les entrepôts de stockage et les entrepôts d'attente. (*critical infrastructure*)

Loi La Loi sur les mesures d'urgence. (Act)

personne protégée S'entend au sens du paragraphe 95(2) de la *Loi sur l'immigration et la protection des réfugiés*. (*protected person*)

Interdiction – assemblée publique

2 (1) Il est interdit de participer à une assemblée publique dont il est raisonnable de penser qu'elle aurait pour effet de troubler la paix par l'un des moyens suivants :

a) en entravant gravement le commerce ou la circulation des personnes et des biens;

b) en entravant le fonctionnement d'infrastructures essentielles;

c) en favorisant l'usage de la violence grave ou de menaces de violence contre des personnes ou des biens.

Mineur

(2) Il est interdit de faire participer une personne âgée de moins de dix-huit ans à une assemblée visée au paragraphe (1).

Interdiction – entrée au Canada – étranger

3 (1) Il est interdit à l'étranger d'entrer au Canada avec l'intention de participer à une assemblée visée au paragraphe 2(1) ou de faciliter une telle assemblée.

Exemption

(2) Le paragraphe (1) ne s'applique pas aux personnes suivantes :

a) une personne inscrite à titre d'Indien sous le régime de la *Loi sur les Indiens*;

b) la personne reconnue comme réfugié au sens de la Convention, ou la personne dans une situation semblable à celui-ci au sens du paragraphe 146(1) du *Règlement sur l'immigration et la protection des réfugiés*, qui est titulaire d'un visa de résident permanent délivré aux termes du paragraphe 139(1) de ce règlement;

c) la personne qui est titulaire d'un permis de séjour temporaire au sens du paragraphe 24(1) de la *Loi sur l'immigration et la protection des réfugiés* et qui cherche à entrer au Canada à titre de résident temporaire protégé aux termes du paragraphe 151.1(2) du *Règlement sur l'immigration et la protection des réfugiés*;

(d) a person who seeks to enter Canada for the purpose of making a claim for refugee protection;

(e) a protected person;

(f) a person or any person in a class of persons whose presence in Canada, as determined by the Minister of Citizenship and Immigration or the Minister of Public Safety and Emergency Preparedness, is in the national interest.

Travel

4 (1) A person must not travel to or within an area where an assembly referred to in subsection 2(1) is taking place.

Minor — travel near public assembly

(2) A person must not cause a person under the age of eighteen years to travel to or within 500 metres of an area where an assembly referred to in subsection 2(1) is taking place.

Exemptions

(3) A person is not in contravention of subsections (1) and (2) if they are

(a) a person who, within of the assembly area, resides, works or is moving through that area for reasons other than to participate in or facilitate the assembly;

(b) a person who, within the assembly area, is acting with the permission of a peace officer or the Minister of Public Safety and Emergency Preparedness;

(c) a peace officer; or

(d) an employee or agent of the government of Canada or a province who is acting in the execution of their duties.

Use of property — prohibited assembly

5 A person must not, directly or indirectly, use, collect, provide make available or invite a person to provide property to facilitate or participate in any assembly referred to in subsection 2(1) or for the purpose of benefiting any person who is facilitating or participating in such an activity.

Designation of protected places

6 The following places are designated as protected and may be secured:

(a) critical infrastructures;

(b) *Parliament Hill* and the *parliamentary precinct* as they are defined in section 79.51 of the *Parliament of Canada Act*;

(d) la personne qui cherche à entrer au Canada afin de faire une demande d'asile;

(e) la personne protégée;

(f) sa présence au Canada est, individuellement ou au titre de son appartenance à une catégorie de personnes, selon ce que conclut le ministre de la Citoyenneté et de l'Immigration ou le ministre de la Sécurité publique et de la Protection civile, dans l'intérêt national.

Déplacements

4 (1) Il est interdit de se déplacer à destination ou à l'intérieur d'une zone où se tient une assemblée visée au paragraphe 2(1).

Déplacements à proximité d'une assemblée publique – mineur

(2) Il est interdit de faire déplacer une personne âgée de moins de dix-huit ans, à destination ou à moins de 500 mètres de la zone où se tient une assemblée visée au paragraphe 2(1).

Exemptions

(3) Ne contrevient pas aux paragraphes (1) et (2) :

(a) la personne qui réside, travaille ou circule dans la zone de l'assemblée, pour des motifs autres que de prendre part à l'assemblée ou la faciliter;

(b) la personne qui, relativement à la zone d'assemblée, agit avec la permission d'un agent de la paix ou du ministre de la Sécurité publique et de la Protection civile;

(c) l'agent de la paix;

(d) l'employé ou le mandataire du gouvernement du Canada ou d'une province qui agit dans l'exercice de ses fonctions.

Utilisation de biens – assemblée interdite

5 Il est interdit, directement ou non, d'utiliser, de réunir, de rendre disponibles ou de fournir des biens — ou d'inviter une autre personne à le faire — pour participer à toute assemblée visée au paragraphe 2(1) ou faciliter une telle assemblée ou pour en faire bénéficier une personne qui participe à une telle assemblée ou la facilite.

Désignation de lieux protégés

6 Les lieux suivants sont protégés et peuvent être aménagés :

(a) les infrastructures essentielles;

(b) la *cité parlementaire* et la *Colline parlementaire* au sens de l'article 79.51 de la *Loi sur le Parlement du Canada*;

(c) official residences;

(d) government buildings and defence buildings

(e) any property that is a building, structure or part thereof that primarily serves as a monument to honour persons who were killed or died as a consequence of a war, including a war memorial or cenotaph, or an object associated with honouring or remembering those persons that is located in or on the grounds of such a building or structure, or a cemetery;

(f) any other place as designated by the Minister of Public Safety and Emergency Preparedness.

Direction to render essential goods and services

7 (1) Any person must make available and render the essential goods and services requested by the Minister of Public Safety and Emergency Preparedness, the Commissioner of the Royal Canadian Mounted Police or a person acting on their behalf for the removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade.

Method of request

(2) Any request made under subsection (1) may be made in writing or given verbally by a person acting on their behalf.

Verbal request

(3) Any verbal request must be confirmed in writing as soon as possible.

Period of request

8 A person who, in accordance with these Regulations, is subject to a request under section 7 to render essential goods and services must comply immediately with that request until the earlier of any of the following:

(a) the day referred to in the request;

(b) the day on which the declaration of the public order emergency expires or is revoked; or

(c) the day on which these Regulations are repealed.

Compensation for essential goods and services

9 (1) Her Majesty in right of Canada is to provide reasonable compensation to a person for any goods or services that they have rendered at their request under section 7, which amount must be equal to the current market price for those goods or services of that same type, in the area in which the goods or services are rendered.

c) les résidences officielles;

d) les immeubles gouvernementaux et les immeubles de la défense;

e) tout ou partie d'un bâtiment ou d'une structure servant principalement de monument érigé en l'honneur des personnes tuées ou décédées en raison d'une guerre — notamment un monument commémoratif de guerre ou un cenotaphe —, d'un objet servant à honorer ces personnes ou à en rappeler le souvenir et se trouvant dans un tel bâtiment ou une telle structure ou sur le terrain où ceux-ci sont situés, ou d'un cimetière;

f) tout autre lieu désigné par le ministre de la Sécurité publique et de la Protection civile.

Ordre de fournir des biens et services essentiels

7 (1) Toute personne doit rendre disponibles et fournir les biens et services essentiels demandés par le ministre de la Sécurité publique et de la Protection civile, du commissaire de la Gendarmerie royale du Canada, ou la personne agissant en leur nom pour l'enlèvement, le remorquage et l'entreposage de véhicules, d'équipement, des structures ou de tout autre objet qui composent un blocage.

Modalités

(2) La demande faite au titre du paragraphe (1) peut être faite par écrit ou communiquée verbalement ou la personne agissant en son nom.

Demande verbale

(3) La demande verbale est confirmée par écrit dès que possible.

Période de validité

8 Quiconque fait l'objet d'une demande au titre de l'article 7 pour la fourniture de biens et de services essentiels est tenu de s'y conformer dans les plus brefs délais jusqu'à la première des dates suivantes :

a) la date indiqué à la demande;

b) la date de l'abrogation ou la cessation d'effet de la déclaration d'état d'urgence;

c) la date de l'abrogation du présent règlement.

Indemnisation pour les biens et services essentiels

9 (1) Sa Majesté du chef du Canada accorde une indemnité raisonnable à la personne pour les biens fournis et les services rendus à sa demande aux termes de l'article 7 dont le montant équivaut au taux courant du marché pour les biens et services de même type, dans la région où les biens ont été fournis ou où les services ont été rendus.

Compensation

(2) Any person who suffers loss, injury or damage as a result of anything done or purported to be done under these Regulations may make an application for compensation in accordance with Part V of the *Emergencies Act* and any regulations made under that Part, as the case may be.

Compliance — peace officer

10 (1) In the case of a failure to comply with these Regulations, any peace officer may take the necessary measures to ensure the compliance with these Regulations and with any provincial or municipal laws and allow for the prosecution for that failure to comply.

Contravention of Regulations

(2) In the case of a failure to comply with these Regulations, any peace officer may take the necessary measures to ensure the compliance and allow for the prosecution for that failure to comply

(a) on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both; or

(b) on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding five years or to both.

Coming into force

11 This Order comes into force on the day on which it is registered.

Indemnisation

(2) Toute personne qui subit des dommages corporels ou matériels entraînés par des actes accomplis, ou censés l'avoir été, en application du présent règlement peut, à cet égard, présenter une demande d'indemnisation conformément à la partie V de la *Loi sur les mesures d'urgence* et à ses règlements d'application, le cas échéant.

Application des lois

10 (1) En cas de contravention au présent règlement, tout agent de la paix peut prendre les mesures nécessaires pour faire observer le présent règlement ou toutes lois provinciales ou municipales et permettre l'engagement de poursuites pour cette contravention.

Pénalités

(2) Quiconque contrevient au présent règlement est coupable d'une infraction passible, sur déclaration de culpabilité :

a) par procédure sommaire, d'une amende maximale de 500 \$ et d'un d'emprisonnement maximal de six mois, ou de l'une de ces peines;

b) par mise en accusation, d'une amende maximale de 5 000 \$ et d'un emprisonnement maximal de cinq ans, ou de l'une de ces peines.

Entrée en vigueur

11 Le présent règlement entre en vigueur à la date de son enregistrement.

This is **EXHIBIT “R”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "Janani S".

Janani Shanmuganathan

Registration
SOR/2022-22 February 15, 2022

EMERGENCIES ACT

P.C. 2022-108 February 15, 2022

Whereas the Governor in Council has, by a proclamation made pursuant to subsection 17(1) of the *Emergencies Act*, declared that a public order emergency exists;

And whereas the Governor in Council has reasonable grounds to believe that the measures with respect to property referred to in this Order are necessary;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 19(1) of the *Emergencies Act*, makes the annexed *Emergency Economic Measures Order*.

Emergency Economic Measures Order

Definitions

1 The following definitions apply to this Order:

designated person means any individual or entity that is engaged, directly or indirectly, in an activity prohibited by sections 2 to 5 of the *Emergency Measures Regulations*. (*personne désignée*)

entity includes a corporation, trust, partnership, fund, unincorporated association or organization or foreign state. (*entité*)

Duty to cease dealings

2 (1) Any entity set out in section 3 must, upon the coming into force of this Order, cease

(a) dealing in any property, wherever situated, that is owned, held or controlled, directly or indirectly, by a designated person or by a person acting on behalf of or at the direction of that designated person;

(b) facilitating any transaction related to a dealing referred to in paragraph (a);

(c) making available any property, including funds or virtual currency, to or for the benefit of a designated person or to a person acting on behalf of or at the direction of a designated person; or

Enregistrement
DORS/2022-22 Le 15 février 2022

LOI SUR LES MESURES D'URGENCE

C.P. 2022-108 Le 15 février 2022

Attendu que la gouverneure en conseil a, par proclamation prise en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*, déclaré qu'il existe un état d'urgence;

Attendu que la gouverneure en conseil a des motifs raisonnables de croire que les mesures relatives aux biens prévues dans le présent décret sont fondées,

À ces causes, sur recommandation du ministre de la Sécurité publique et de la Protection civile et en vertu du paragraphe 19(1) de la *Loi sur les mesures d'urgence*, Son Excellence la Gouverneure générale en conseil prend le *Décret sur les mesures économiques d'urgence*, ci-après.

Décret sur les mesures économiques d'urgence

Définitions

1 Les définitions qui suivent s'appliquent au présent décret :

entité S'entend notamment d'une personne morale, d'une fiducie, d'une société de personne, d'un fonds, d'une organisation ou d'une association dotée de la personnalité morale ou d'un État étranger. (*entity*)

personne désignée Toute personne physique ou entité qui participe, même indirectement, à l'une ou l'autre des activités interdites au titre des articles 2 à 5 du *Règlement sur les mesures d'urgence*. (*designated person*)

Obligations de cesser les opérations

2 (1) Dès l'entrée en vigueur du présent décret, les entités visées à l'article 3 doivent cesser :

a) toute opération portant sur un bien, où qu'il se trouve, appartenant à une personne désignée ou détenu ou contrôlé par elle ou pour son compte ou suivant ses instructions;

b) toute transaction liée à une opération visée à l'alinéa a) ou d'en faciliter la conclusion;

c) de rendre disponible des biens — notamment des fonds ou de la monnaie virtuelle — à une personne désignée ou à une personne agissant pour son compte

(d) providing any financial or related services to or for the benefit of any designated person or acquire any such services from or for the benefit of any such person or entity.

Insurance policy

(2) Paragraph 2(1)(d) does not apply in respect of any insurance policy which was valid prior to the coming in force of this Order other than an insurance policy for any vehicle being used in a public assembly referred to in subsection 2(1) of the *Emergency Measures Regulations*.

Duty to determine

3 The following entities must determine on a continuing basis whether they are in possession or control of property that is owned, held or controlled by or on behalf of a designated person:

(a) authorized foreign banks, as defined in section 2 of the *Bank Act*, in respect of their business in Canada, and banks regulated by that Act;

(b) cooperative credit societies, savings and credit unions and caisses populaires regulated by a provincial Act and associations regulated by the *Cooperative Credit Associations Act*;

(c) foreign companies, as defined in subsection 2(1) of the *Insurance Companies Act*, in respect of their insurance business in Canada;

(d) companies, provincial companies and societies, as those terms are defined in subsection 2(1) of the *Insurance Companies Act*;

(e) fraternal benefit societies regulated by a provincial Act in respect of their insurance activities and insurance companies and other entities regulated by a provincial Act that are engaged in the business of insuring risks;

(f) companies regulated by the *Trust and Loan Companies Act*;

(g) trust companies regulated by a provincial Act;

(h) loan companies regulated by a provincial Act;

(i) entities that engage in any activity described in paragraphs 5(h) and (h.1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*;

(j) entities authorized under provincial legislation to engage in the business of dealing in securities or to provide portfolio management or investment counselling services;

ou suivant ses instructions, ou au profit de l'une ou l'autre de ces personnes;

d) de fournir des services financiers ou connexes à une personne désignée ou à son profit ou acquérir de tels services auprès d'elle ou à son profit.

Police d'assurance

(2) Toutefois, l'alinéa 2(1)d) ne s'applique pas à l'égard d'une police d'assurance effective — au moment de l'entrée en vigueur du présent décret — portant sur un véhicule autre que celui utilisé lors d'une assemblée publique visée au paragraphe 2(1) du *Règlement sur les mesures d'urgence*.

Vérification

3 Il incombe aux entités mentionnées ci-après de vérifier de façon continue si des biens qui sont en leur possession ou sous leur contrôle appartiennent à une personne désignée ou sont détenus ou contrôlés par elle ou pour son compte :

a) les banques étrangères autorisées, au sens de l'article 2 de la *Loi sur les banques*, dans le cadre de leurs activités au Canada, et les banques régies par cette loi;

b) les coopératives de crédit, caisses d'épargne et de crédit et caisses populaires régies par une loi provinciale et les associations régies par la *Loi sur les associations coopératives de crédit*;

c) les sociétés étrangères, au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*, dans le cadre de leurs activités d'assurance au Canada;

d) les sociétés, les sociétés de secours et les sociétés provinciales, au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*;

e) les sociétés de secours mutuel régies par une loi provinciale, dans le cadre de leurs activités d'assurance, et les sociétés d'assurances et autres entités régies par une loi provinciale qui exercent le commerce de l'assurance;

f) les sociétés régies par la *Loi sur les sociétés de fiducie et de prêt*;

g) les sociétés de fiducie régies par une loi provinciale;

h) les sociétés de prêt régies par une loi provinciale;

i) les entités qui se livrent à une activité visée aux alinéas 5h) et h.1) de la *Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes*;

(k) entities that provide a platform to raise funds or virtual currency through donations; and

(l) entities that perform any of the following payment functions:

(i) the provision or maintenance of an account that, in relation to an electronic funds transfer, is held on behalf of one or more end users,

(ii) the holding of funds on behalf of an end user until they are withdrawn by the end user or transferred to another individual or entity,

(iii) the initiation of an electronic funds transfer at the request of an end user,

(iv) the authorization of an electronic funds transfer or the transmission, reception or facilitation of an instruction in relation to an electronic funds transfer, or

(v) the provision of clearing or settlement services.

j) les entités autorisées en vertu de la législation provinciale à se livrer au commerce des valeurs mobilières ou à fournir des services de gestion de portefeuille ou des conseils en placement;

k) les plateformes collaboratives et celles de monnaie virtuelle qui sollicitent des dons;

l) toute entité qui exécute l'une ou l'autre de fonctions suivantes :

(i) la fourniture ou la tenue d'un compte détenu au nom d'un ou de plusieurs utilisateurs finaux en vue d'un transfert électronique de fonds,

(ii) la détention de fonds au nom d'un utilisateur final jusqu'à ce qu'ils soient retirés par celui-ci ou transférés à une personne physique ou à une entité,

(iii) l'initiation d'un transfert électronique de fonds à la demande d'un utilisateur final,

(iv) l'autorisation de transfert électronique de fonds ou la transmission, la réception ou la facilitation d'une instruction en vue d'un transfert électronique de fonds,

(v) la prestation de services de compensation ou de règlement.

Registration requirement — FINTRAC

4 (1) The entities referred to in paragraphs 3(k) and (l) must register with the Financial Transactions and Reports Analysis Centre of Canada established by section 41 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* if they are in possession or control of property that is owned, held or controlled by or on behalf of a designated person.

Reporting obligation — suspicious transactions

(2) Those entities must also report to the Centre every financial transaction that occurs or that is attempted in the course of their activities and in respect of which there are reasonable grounds to suspect that

(a) the transaction is related to the commission or the attempted commission of a money laundering offence by a designated person; or

(b) the transaction is related to the commission or the attempted commission of a terrorist activity financing offence by a designated person.

Reporting obligation — other transactions

(3) Those entities must also report to the Centre the transactions and information set out in subsections 30(1)

Inscription obligatoire — Centre

4 (1) Les entités visées aux alinéas 3k) et l) doivent s'inscrire auprès du Centre d'analyse des opérations et déclarations financières du Canada constitué par l'article 41 de la *Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes* s'ils ont en leur possession un bien appartenant à une personne désignée ou détenu ou contrôlé par elle ou pour son compte ou suivant ses instructions.

Opérations douteuses

(2) Elles doivent également déclarer au Centre toute opération financière effectuée ou tentée dans le cours de ses activités et à l'égard de laquelle il y a des motifs raisonnables de soupçonner qu'elle est liée à la perpétration — réelle ou tentée — par à une personne désignée :

a) soit d'une infraction de recyclage des produits de la criminalité;

b) soit d'une infraction de financement des activités terroristes.

Autres opérations

(3) Elles doivent également déclarer au Centre les opérations visées aux paragraphes 30(1) ou 33(1) du *Règlement*

and 33(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*.

Duty to disclose — RCMP or CSIS

5 Every entity set out in section 3 must disclose without delay to the Commissioner of the Royal Canadian Mounted Police or to the Director of the Canadian Security Intelligence Service

(a) the existence of property in their possession or control that they have reason to believe is owned, held or controlled by or on behalf of a designated person; and

(b) any information about a transaction or proposed transaction in respect of property referred to in paragraph (a).

Disclosure of information

6 A Government of Canada, provincial or territorial institution may disclose information to any entity set out in section 3, if the disclosing institution is satisfied that the disclosure will contribute to the application of this Order.

Immunity

7 No proceedings under the *Emergencies Act* and no civil proceedings lie against an entity for complying with this Order.

Coming into force

8 This Order comes into force on the day on which it is registered.

sur le recyclage des produits de la criminalité et le financement des activités terroristes.

Obligation de communication à la GRC et au SCRC

5 Toute entité visée à l'article 3 est tenue de communiquer, sans délai, au commissaire de la Gendarmerie royale du Canada ou au directeur du Service canadien du renseignement de sécurité :

a) le fait qu'elle croit que des biens qui sont en sa possession ou sous son contrôle appartiennent à une personne désignée ou sont détenus ou contrôlés par elle ou pour son compte;

b) tout renseignement portant sur une transaction, réelle ou projetée, mettant en cause des biens visés à l'alinéa a).

Communication

6 Toute institution fédérale, provinciale ou territoriale peut communiquer des renseignements au responsable d'une entité visée à l'article 3, si elle est convaincue que les renseignements aideront à l'application du présent décret.

Immunité

7 Aucune poursuite en vertu de la *Loi sur les mesures d'urgence* ni aucune procédure civile ne peuvent être intentées contre une entité qui se conforme au présent décret.

Entrée en vigueur

8 Le présent décret entre en vigueur à la date de son enregistrement.

This is **EXHIBIT “S”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "Janani S", positioned above a horizontal line.

Janani Shanmuganathan

Canada Gazette

Part II



Gazette du Canada

Partie II

OTTAWA, WEDNESDAY, FEBRUARY 23, 2022

OTTAWA, LE MERCREDI 23 FÉVRIER 2022

Registration
SOR/2022-26 February 23, 2022

EMERGENCIES ACT

Proclamation Revoking the Declaration of a Public Order Emergency

Mary May Simon

[L.S.]

Canada

ELIZABETH THE SECOND, by the Grace of God of the
United Kingdom, Canada and Her other Realms and
Territories QUEEN, Head of the Commonwealth, De-
fender of the Faith.

François Daigle
Deputy Attorney General of Canada

Great Seal of Canada

TO ALL TO WHOM these presents shall come or whom
the same may in any way concern,

GREETING:

A Proclamation

Whereas a declaration of a public order emergency
throughout Canada was made by proclamation on Febru-
ary 14, 2022;

Whereas the temporary and exceptional measures taken
under the declaration of a public order emergency have
been effective to address the circumstances that existed
throughout Canada on February 14, 2022 and the ongoing
threats, as evidenced by the circumstances that were
occurring in Ottawa and at various border crossings in

Enregistrement
DORS/2022-26 Le 23 février 2022

LOI SUR LES MESURES D'URGENCE

Proclamation abrogeant la déclaration d'état d'urgence

Mary May Simon

[S.L.]

Canada

ELIZABETH DEUX, par la Grâce de Dieu, REINE du
Royaume-Uni, du Canada et de ses autres royaumes
et territoires, Chef du Commonwealth, Défenseur de
la Foi.

Le sous-procureur général du Canada
François Daigle

Grand sceau du Canada

À TOUS CEUX à qui les présentes parviennent ou qu'elles
peuvent de quelque manière concerner,

SALUT :

Proclamation

Attendu qu'une déclaration d'état d'urgence dans tout le
pays a été faite par proclamation le 14 février 2022;

Attendu que les mesures exceptionnelles prises à titre
temporaire en vertu de la déclaration d'état d'urgence ont
été efficaces pour répondre aux circonstances qui exis-
taient à travers le Canada le 14 février 2022 ainsi que les
menaces persistantes dont attestent les circonstances sur-
venues à Ottawa et à divers postes frontaliers en Ontario,

Ontario, Manitoba, British Columbia, Alberta and elsewhere with respect to continuing blockades and the continuing threats to oppose measures to remove the blockades;

Whereas, in light of these facts, the Governor in Council believes that sufficient powers, without those temporary and exceptional measures, exist to resolve any residual, or prevent any new, illegal blockade or public assembly that may reasonably be expected to lead to a breach of the peace;

And whereas the Governor in Council believes that the declaration of a public order emergency throughout Canada is no longer necessary;

Now Know You that We, by and with the advice of Our Privy Council for Canada, pursuant to section 22 of the *Emergencies Act*, do by this Our Proclamation revoke the declaration of a public order emergency made by proclamation on February 14, 2022, throughout Canada, effective on the day on which this proclamation is issued.

In testimony whereof, We have caused this Our Proclamation to be published and the Great Seal of Canada to be affixed to it.

WITNESS:

Our Right Trusty and Well-beloved Mary May Simon, Chancellor and Principal Companion of Our Order of Canada, Chancellor and Commander of Our Order of Military Merit, Chancellor and Commander of Our Order of Merit of the Police Forces, Governor General and Commander-in-Chief of Canada.

At Our Government House, in Our City of Ottawa, this twenty-third day of February in the year of Our Lord two thousand and twenty-two and in the seventy-first year of Our Reign.

BY COMMAND,

Simon Kennedy
Deputy Registrar General of Canada

au Manitoba, en Colombie-Britannique, en Alberta et ailleurs à l'égard de blocages continus et de menaces continues proférées en opposition aux mesures visant à mettre fin aux blocages;

Attendu que, à la lumière de ces faits, la gouverneure en conseil croit que, en l'absence de ces mesures temporaires et exceptionnelles, les pouvoirs existants sont suffisants pour résoudre tout blocage illégal ou toute assemblée publique dont il est raisonnable de penser qu'elle aurait pour effet de troubler la paix qui subsistent, et pour prévenir de tels blocages et assemblées;

Attendu que la gouverneure en conseil croit que la déclaration d'état d'urgence dans tout le pays n'est plus nécessaire,

Sachez que, sur et avec l'avis de Notre Conseil privé pour le Canada, Nous, en vertu de l'article 22 de la *Loi sur les mesures d'urgence*, par Notre présente proclamation, abrogeons la déclaration d'état d'urgence faite par proclamation le 14 février 2022, dans tout le pays, avec prise d'effet à la date de la prise de cette proclamation.

En foi de quoi, Nous avons pris et fait publier Notre présente proclamation et y avons fait apposer le grand sceau du Canada.

TÉMOIN :

Notre très fidèle et bien-aimée Mary May Simon, chancelière et compagnon principal de Notre Ordre du Canada, chancelière et commandeur de Notre Ordre du mérite militaire, chancelière et commandeur de Notre Ordre du mérite des corps policiers, gouverneure générale et commandante en chef du Canada.

À Notre hôtel du gouvernement, en Notre ville d'Ottawa, ce vingt-troisième jour de février de l'an de grâce deux mille vingt-deux, soixante et onzième de Notre règne.

PAR ORDRE,

Le sous-registraire général du Canada
Simon Kennedy

This is **EXHIBIT “T”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "Janani S", positioned above a horizontal line.

Janani Shanmuganathan

February 14, 2022 Declaration of Public Order Emergency
Explanation pursuant to subsection 58(1) of the *Emergencies Act*

Declaration of Public Order Emergency

On February 14, 2022, the Governor in Council directed that a proclamation be issued pursuant to subsection 17(1) of the *Emergencies Act* declaring that a public order emergency exists throughout Canada that necessitates the taking of special temporary measures for dealing with the emergency.

In order to declare a public order emergency, the *Emergencies Act* requires that there be an emergency that arises from threats to the security of Canada that are so serious as to be a national emergency. Threats to the security of Canada include the threat or use of acts of serious violence against persons or property for the purpose of achieving a political or ideological objective. A national emergency is an urgent, temporary and critical situation that seriously endangers the health and safety of Canadians that cannot be effectively dealt with by the provinces or territories, or that seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada. It must be a situation that cannot be effectively dealt with by any other law of Canada. Any measures taken under the *Act* must be exercised in accordance with the *Canadian Charter of Rights and Freedoms* and should be carefully tailored to limit any impact on *Charter* rights to what is reasonable and proportionate in the circumstances.

The *Proclamation Declaring a Public Order Emergency* made on February 14, 2022 specified that the public order emergency is constituted of:

- (i) the continuing blockades by both persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada,
- (ii) the adverse effects on the Canadian economy — recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19) — and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings,
- (iii) the adverse effects resulting from the impacts of the blockades on Canada's relationship with its trading partners, including the United States (U.S.), that are detrimental to the interests of Canada,

(iv) the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the risk that this breakdown will continue as blockades continue and increase in number, and

(v) the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians.

The proclamation specifies six types of temporary measures that may be necessary to deal with the public order emergency:

(i) measures to regulate or prohibit any public assembly — other than lawful advocacy, protest or dissent — that may reasonably be expected to lead to a breach of the peace, or the travel to, from or within any specified area, to regulate or prohibit the use of specified property, including goods to be used with respect to a blockade, and to designate and secure protected places, including critical infrastructure,

(ii) measures to authorize or direct any person to render essential services of a type that the person is competent to provide, including services related to removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade anywhere in Canada, to relieve the impacts of the blockades on Canada's public and economic safety, including measures to identify those essential services and the persons competent to render them and to provide reasonable compensation in respect of services so rendered,

(iii) measures to authorize or direct any person to render essential services to relieve the impacts of the blockade, including measures to regulate or prohibit the use of property to fund or support the blockade, to require any crowdfunding platform and payment processor to report certain transactions to the Financial Transactions and Reports Analysis Centre of Canada and to require any financial service provider to determine whether they have in their possession or control property that belongs to a person who participates in the blockade,

(iv) measures to authorize the Royal Canadian Mounted Police (RCMP) to enforce municipal and provincial laws by means of incorporation by reference,

(v) the imposition of fines or imprisonment for contravention of any order or regulation made under section 19 of the *Emergencies Act*; and

(vi) other temporary measures authorized under section 19 of the *Emergencies Act* that are not yet known.

These measures have been implemented by the *Emergency Measures Regulations* and the *Emergency Economic Measures Order*.

Section 58(1) of the *Emergencies Act* requires that a motion for confirmation of a declaration of emergency, signed by a Minister of the Crown, together with an explanation of the reasons for

issuing the declaration and a report on any consultation with the lieutenant governors in council of the provinces with respect to the declaration, be laid before each House of Parliament within seven sitting days after the declaration is issued.

Background leading to the declaration of emergency

The “Freedom Convoy 2022” was the first manifestation of this growing movement centered on anti-government sentiments related to the public health response to the COVID-19 pandemic. Trucker convoys began their journey from various points in the country, and the movement arrived in Ottawa on Friday, January 28, 2022. Since then, the movement has only continued to gain momentum across the country, with significant increase in numbers in Ottawa as well as protests and blockades spreading in different locations, including strategic ports of entry (e.g., Ambassador Bridge, Ontario; Coutts, Alberta; and Emerson, Manitoba).

Participants of these activities have adopted a number of tactics that are threatening, causing fear, disrupting the peace, impacting the Canadian economy, and feeding a general sense of public unrest – either in favour or against the movement. This has included harassing and berating citizens and members of the media, slow roll activity, slowing down traffic and creating traffic jams, in particular near ports of entry, as well as reports of protesters bringing children to protest sites to limit the level and types of law enforcement intervention. The movement has moved beyond a peaceful protest, and there is significant evidence of illegal activity underway. Regular citizens, municipalities and the province of Ontario have all participated in court proceedings seeking injunctive relief to manage the threats and impacts caused by the convoy’s activities, and a proposed class-action has been filed on behalf of residents of Ottawa.

Anecdotal reports of donations from outside Canada to support the protesters were given credence when, on February 13, 2022, hackers of the crowdfunding website, GiveSendGo.com, released hacked data that revealed information about donors and the amount of donations directed to the protesters. According to the Canadian Broadcasting Corporation’s February 14, 2022 analysis of the data, 55.7% of the 92,844 donations made public were made by donors in the U.S., compared to 39% of donors located in Canada. The remaining donors were in other countries, with the U.K. being the most common. The amount donated by U.S. donors totaled \$3.6 million (USD). Many of the donations were made anonymously.

Requests for Assistance and Consultations

The federal government has been in contact with its provincial counterparts throughout this situation. Some requests for federal support to deal with the blockades were from:

- the City of Ottawa for policing services;
- the Province of Ontario with respect to the Ambassador Bridge in Windsor, Ontario; and

- the Province of Alberta with respect to tow truck capacity at the Coutts port of entry.

For further details on the consultations, please see the Report to the Houses of Parliament: *Emergencies Act Consultations*.

Emergency Measures Taken by Ontario and other provinces

On February 11, 2022, the Province of Ontario declared a province-wide state of emergency under its *Emergency Management and Civil Protection Act*, in response to the interference with transportation and other critical infrastructure throughout the province, which is preventing the movement of people and delivery of essential goods.

Measures that have since been implemented under these emergency measures include: fines and possible imprisonment for protesters refusing to leave, with penalties of \$100,000 and up to one year of imprisonment for non-compliance.

On February 12, 2022, the Ontario Government also enacted legislation under the *Emergency Management and Civil Protection Act*, (Ontario Regulation 71/22) making it illegal and punishable to block and impede the movement of goods, people and services along critical infrastructure. New Brunswick has announced that it will update its *Emergency Act* to prohibit stopping or parking a vehicle or otherwise contributing to the interruption of the normal flow of vehicle traffic on any road or highway. Nova Scotia similarly issued a directive under its *Emergency Management Act* prohibiting protests from blockading a highway near the Nova Scotia-New Brunswick border.

No other province has signaled its intent to take similar steps.

As detailed in the Reasons below, the convoy activities have led to an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency.

Reasons for Public Order Emergency

The situation across the country remains concerning, volatile and unpredictable. The decision to issue the declaration was informed by an assessment of the overall, national situation and robust discussions at three meetings of the Incident Response Group on February 10, 12 and 13, 2022.

The intent of these measures is to supplement provincial and territorial authorities to address the blockades and occupation and to restore public order, the rule of law and confidence in Canada's institutions. These time-limited measures will be used only where needed depending on the nature of the threat and its evolution and would not displace or replace provincial and territorial authorities, nor would they derogate provinces and territories' authority to direct their police

forces. The convoy activities and their impact constituting the reasons for the emergency as set out in the *Proclamation Declaring a Public Order Emergency* are detailed below:

- i. **the continuing blockades by both persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada;**

The protests have become a rallying point for anti-government and anti-authority, anti-vaccination, conspiracy theory and white supremacist groups throughout Canada and other Western countries. The protesters have varying ideological grievances, with demands ranging from an end to all public health restrictions to the overthrow of the elected government. As one example, protest organizers have suggested forming a coalition government with opposition parties and the involvement of Governor General Mary Simon. This suggestion appears to be an evolution of a previous proposal from a widely circulated “memorandum of understanding” from a group called “Canada Unity” that is taking part in the convoy. The “memorandum of understanding” proposed that the Senate and Governor General could agree to join them in forming a committee to order the revocation of COVID-19 restrictions and vaccine mandates.

Tactics adopted by protesters in support of these aims include slow roll activity, slowing down traffic and creating traffic jams, in particular near ports of entry, as well as reports of protesters bringing children to protest sites to limit the level and types of law enforcement intervention. The intent of the protestors at ports of entry was to impede the importation and exportation of goods across the Canada-U.S. border in order to achieve a change in the Government of Canada’s COVID health measures in addition to other government policies.

Trucks and personal vehicles in the National Capital Region continue to disrupt daily life in Ottawa and have caused retail and other businesses to shutter. Local tow truck drivers have refused to work with governments to remove trucks in the blockade. The Chief of the Ottawa Police Service resigned on February 15, 2022 in response to criticism of the police’s response to the protests.

Convoy supporters formerly employed in law enforcement and the military have appeared alongside organizers and may be providing them with logistical and security advice, which may pose operational challenges for law enforcement should policing techniques and tactics be revealed to convoy participants. There is evidence of coordination between the various convoys and blockades.

Violent incidents and threats of violence and arrests related to the protests have been reported across Canada. The RCMP's recent seizure of a cache of firearms with a large quantity of ammunition in Coutts, Alberta, indicated that there are elements within the protests that have intentions to engage in violence. Ideologically motivated violent extremism adherents may feel empowered by the level of disorder resulting from the protests. Violent online rhetoric, increased threats against public officials and the physical presence of ideological extremists at protests also indicate that there is a risk of serious violence and the potential for lone actor attackers to conduct terrorism attacks.

To help manage these blockades and their significant adverse impacts, the *Emergency Measures Regulations* prohibit certain types of public assemblies ("prohibited assemblies") that may reasonably be expected to lead to a breach of the peace by: (i) the serious disruption of the movement of persons or goods or the serious interference with trade; (ii) interference with the functioning of critical infrastructure; or (iii) the support the threat or use of acts of serious violence against persons or property. They also prohibit individuals from (i) participating or causing minors to participate in prohibited assemblies; (ii) travelling to or within an area where prohibited assemblies are taking place, or causing minors to travel to or within 500 metres of a prohibited assembly, subject to certain exceptions; and (iii) directly or indirectly using, collecting, providing, making available or soliciting property to facilitate or participate in a prohibited assembly or to benefit any person who is facilitating or participating in a prohibited assembly. Foreign nationals are also prohibited from entering Canada with the intent to participate or facilitate a prohibited public assembly, subject to certain exceptions.

The *Emergency Management Regulations* also designate certain places as protected and provide that they may be secured, including Parliament Hill and the parliamentary precinct, critical infrastructures, official residences, government and defence buildings, and war memorials.

ii. the adverse effects on the Canadian economy — recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19) — and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings

Trade and transportation within Canada and between Canada and the U.S. is highly integrated. Border crossing, railway lines, airports and ports of entry are integrated and are adversely affected where one or more of the components is blockaded or prevented from operating under normal capacity.

Trade between Canada and the U.S. is crucial to the economy and the lives and welfare of all Canadians. Approximately 75% of Canadian exports go to the U.S., generating approximately \$2 billion in imports/exports per day and \$774 billion in total trade between the two countries in 2021.

Blockades and protests at numerous points along the Canada–U.S. border have already had a severe impact on Canada’s economy. Protests at the major ports of entry at the Ambassador Bridge in Windsor, Ontario; Emerson, Manitoba; Coutts Alberta; and, Pacific Highway in British Columbia, each of which is critical to the international movement of people and goods, required the Canada Border Services Agency (CBSA) to suspend services.

An essential trading corridor, the Ambassador Bridge is Canada’s busiest crossing, handling over \$140 billion in merchandise trade in 2021. It accounted for 26% of the country’s exports moved by road in 2021 (\$63 billion out of \$242 billion) and 33% of the country’s imports (\$80 billion out of \$240 billion). Since the blockades began at the Ambassador Bridge, over \$390 million in trade each day with Canada’s most important trading partner, the U.S., has been affected, resulting in the loss of employee wages, reduced automotive processing capacity and overall production loss in an industry already hampered by the supply shortage of critical electronic components. This bridge supports 30% of all trade by road between Canada and the U.S. The blockades in Coutts, Alberta, and Emerson, Manitoba, have affected approximately \$48 million and \$73 million in trade each day, respectively. These recent events targeting Canada’s high volume commercial ports of entry have irreparably harmed the confidence that our trading partners have in Canada’s ability to effectively contribute to the global economy and will result in manufacturers reassessing their manufacturing investments in Canada, impacting the health and welfare of thousands of Canadians.

In addition, throughout the week leading up to February 14, 2022, there were 12 additional protests that directly impacted port of entry operations. At two locations, Pacific Highway and Fort Erie, protestors had breached the confines of the CBSA plaza resulting in CBSA officers locking down the office to prevent additional protestors from gaining entry.

More specifically, disruptions at strategic ports of entry in Alberta, British Columbia, Manitoba and Ontario prior to the declaration of the emergency included:

- Ambassador Bridge, Windsor, Ontario: The busiest crossing along the Canada-U.S. border had been blocked since February 7, 2022. After an injunction was issued on February 11, 2022, law enforcement started to disperse protesters. On February 13, 2022, police enforcement action continued with reports of arrests being made and vehicles towed. As of the evening of February 13, 2022, the Ambassador Bridge has been fully reopened, and no delays at the border crossing are being reported, but efforts continue to ensure that the bridge remains open.

- Sarnia, Ontario: On February 8, 2022, two large groups of protestors conducted a blockade of the provincial highway leading to and from the Sarnia Blue Water Bridge. This port of entry is Canada's second busiest border crossing with imports and exports serving the oil and gas, perishable foods, livestock and automotive sectors. The protest resulted in the suspension of all outbound movement of commercial and traveller vehicles to the U.S. along with reduced inbound capacity for incoming conveyances. The Ontario Provincial Police (OPP) were able to restore order to the immediate area of the port of entry after ten hours of border disruption. On February 9, 2022, members of one of the protest groups established a highway blockade approximately 30 kilometres east of Sarnia on the provincial highway, resulting in the diversion of international traffic to emergency detour routes to gain access to the border. This activity continued until February 14, 2022 when access to the portion of the highway was restored.
- Fort Erie, Ontario: On February 12, 2022, a large protest targeted the CBSA Peace Bridge port of entry at Fort Erie, Ontario. This port of entry is Canada's third busiest land border crossing responsible for millions of dollars in international trade each day of perishable goods, manufacturing components and courier shipments of personal and business goods being imported and exported. The protest disrupted inbound traffic for a portion of the day on February 12, 2022 and resulted in the blockade of outbound traffic until February 14, 2022 when the OPP and Niagara Regional Police were able to restore security of the trade corridor linking the provincial highway to the border crossing.
- Emerson, Manitoba: As of February 13, 2022, vehicles of the blockade remain north of the port of entry. Some local traveller traffic was able to enter Canada, however commercial shipments are unable to use the highway North of Emerson resulting in disruptions to live animal, perishable and manufactured goods shipments into Canada and exports to the U.S. The protesters have allowed some live animal shipments to proceed through the blockade for export to the U.S.
- Coutts, Alberta: The blockade began on January 29, 2022, resulting in the disruption of Canada and U.S. border traffic. This port of entry is a critical commercial border point for the movement of live animals, oil and gas, perishable and manufactured goods destined for Alberta and western Saskatchewan. As of February 14, 2022, the RCMP, who is the police of jurisdiction pursuant to the provincial Police Service Agreement, have arrested 11 individuals and seized a cache of weapons and ammunition. Four of these individuals were charged with conspiracy to commit murder, in addition to other offences. The RCMP restored access to the provincial highway North of Coutts on February 15, 2022 and border services were fully restored, but efforts continue to ensure that it remains open.

- Vancouver, British Columbia (BC), and Metro area: On February 12, 2022, several vehicles including a military-style vehicle broke through an RCMP barricade in south Surrey, BC, on their way to the Pacific Highway port of entry. Protesters forced the highway closure at the Canada-U.S. border in Surrey.

In addition, on February 12, 2022, police in Cornwall, Ontario warned of potential border delays and blockages due to protests.

These blockades and protests directly threaten the security of Canada's borders, with the potential to endanger the ability of Canada to manage the flow of goods and people across the border and the safety of CBSA officers and to undermine the trust and coordination between CBSA officials and their American partners. Additional blockades are anticipated. While Ontario's *Emergency Management and Civil Protection Act* authorizes persons to provide assistance, it specifically does not compel them to do so. Tow truck operators remain free to decline requests to tow vehicles that were part of the blockades and they have refused to render assistance to the government of Ontario. It was beyond the capacity of the province of Ontario to ensure in a timely manner that tow trucks could be used to clear vehicles. The emergency measures now allow the federal Minister of Public Safety and Emergency Preparedness or any other person acting on their behalf to immediately compel individuals to provide and render essential goods and services for the removal, towing or storage of any vehicle or other object that is part of a blockade and provides that reasonable compensation will be payable. Individuals who suffer loss or damage because of actions taken under these Regulations may apply for compensation.

Threats were also made to block railway lines, which would result in significant disruptions. Canada's freight rail industry transports more than \$310 billion worth of goods each year on a network that runs from coast to coast. Canada's freight railways serve customers in almost every part of the Canadian economy: from manufacturing to the agricultural, natural resource, wholesale and retail sectors. In addition, freight railways have Canadian operating revenues of more than \$16 billion a year.

The impact on important trade corridors and the risk to the reputation of Canada as a stable, predictable and reliable location for investment may be jeopardized if disruptions continue. The current federal and provincial financial systems are ill-equipped to mitigate the adverse effects of the economic impact without additional measures. The *Emergency Economic Measures Order* requires a comprehensive list of financial service providers to determine whether any of the property in their possession or control belong to protesters participating in the illegal blockades and to cease dealing with those protesters. Financial service providers who would otherwise be outside federal jurisdiction are subject to the Order. Given the ability to move financial resources between financial service providers without regard to their geographic location or whether they are provincially- or federally-regulated, it is essential that all financial service providers be subject to the Order if protesters are to be prevented from accessing financial services. The importance of

this measure is highlighted by the Canadian Broadcasting Corporation's recent reporting about the crowdfunding website, GiveSendGo.com, which indicated that the majority of the donations to the protests were made by donors outside of Canada.

Before the new measures, in respect of insurance, provinces would only be able to cancel or suspend policies for vehicles registered in that province. Protestors from different provinces would not be subject to, for example, the Government of Ontario's powers under its declaration of a state of emergency to cancel licenses of vehicles participating in blockades or prohibited assemblies. The emergency measures now require insurance companies to cancel or suspend the insurance of any vehicle or person while that person or vehicle is taking part in a prohibited assembly as defined under the new *Emergency Measures Regulations*.

iii. the adverse effects resulting from the impacts of the blockades on Canada's relationship with its trading partners, including the U.S., that are detrimental to the interests of Canada

The U.S. has expressed concerns related to the economic impacts of blockades at the borders, as well as possible impacts on violent extremist movements. During a call with President Joe Biden on February 11, 2022, the critical importance of resolving access to the Ambassador Bridge and other ports of entry as quickly as possible was discussed, given their role as vital bilateral trade corridors, and as essential to the extensive interconnections between our two countries.

Disruptions at ports of entry have significant impacts on trade with U.S. partners and the already fragile supply chain, and have resulted in temporary closures of manufacturing sites, job loss, and loss of revenues. One week of the Ambassador Bridge blockade alone is estimated to have caused a total economic loss of \$51 million for U.S. working people and businesses in the automotive and transportation industry. Consequently, the protests have been the cause of significant criticism and concern from U.S. political, industry and labour leaders.

The Governor of Michigan has issued several statements expressing her frustration with the ongoing protests and blockade and the damage they are doing to her state and constituents. Similar frustrations have been voiced by the General President of the International Brotherhood of Teamsters and the Canada-U.S. Business Association. The blockades and protests are of such concern to the U.S. government that the Department of Homeland Security Secretary has offered its assistance in ending the protests.

More generally, the protests and blockades are eroding confidence in Canada as a place to invest and do business. Politicians in Michigan have already speculated that disruptions in cross border trade may lead them to seek domestic, as opposed to Canadian, suppliers for automotive parts.

iv. the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the risk that this breakdown will continue as blockades continue and increase in number

Canada has a uniquely vulnerable trade and transportation system. Relative to global competitors, Canadian products travel significantly further, through challenging geography and climate conditions. Moreover, trade and transport within Canada, and between Canada and the U.S. is highly integrated.

The closure of, and threats against, crucial ports of entry along the Canada-U.S. border has not only had an adverse impact on Canada's economy, it has also imperiled the welfare of Canadians by disrupting the transport of crucial goods, medical supplies, food, and fuel across the U.S.-Canada border. A failure to keep international crossings open could result in a shortage of crucial medicine, food and fuel.

In addition to the blockades along the border, protesters attempted to impede access to the MacDonald-Cartier International Airport in Ottawa and threatened to blockade railway lines. The result of a railway blockade would be significant. As noted above, Canada's freight rail industry transports more than \$310 billion worth of goods each year on a network that runs from coast to coast. Canada's freight railways serve customers in almost every part of the Canadian economy: from manufacturing, to the agricultural, natural resource, wholesale and retail sectors.

v. the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians

The protests and blockades pose severe risks to public safety. While municipal and provincial authorities have taken decisive action in key affected areas, such as law enforcement activity at the Ambassador Bridge in Windsor, considerable effort was necessary to restore access to the site and will be required to maintain access.

There is significant evidence of illegal activity to date and the situation across the country remains concerning, volatile and unpredictable. The Freedom Convoy could also lead to an increase in the number of individuals who support ideologically motivated violent extremism (IMVE) and the prospect for serious violence. Proponents of IMVE are driven by a range of influences rather than a singular belief system. IMVE radicalization is more often caused by a combination of ideas and grievances resulting in a personalized worldview. The resulting worldview often centres on the willingness to incite, enable or mobilize violence.

On February 14, 2022, the RCMP arrested numerous individuals in Coutts, Alberta associated with a known IMVE group who had been engaged with the protests and seized a cache of firearms with a large quantity of ammunition, which indicates that there are elements within this movement that intend to engage in violence. Four of these individuals were charged with conspiracy to commit murder, in addition to other offences.

Since the convoy began, there has been a significant increase in the number and duration of incidents involving criminality associated with public order events related to anti-public health measures and there have been serious threats of violence assessed to be politically or ideologically motivated. Two bomb threats were made to Vancouver hospitals and numerous suspicious packages containing rhetoric that references the hanging of politicians and potentially noxious substances were sent to offices of Members of Parliament in Nova Scotia. While a link to the convoy has not yet been established in either case, these threats are consistent with an overall uptick in threats made against public officials and health care workers. A number of threats were noted regarding the Nova Scotia-New Brunswick border demonstration set for February 12, 2022, including a call to bring “arms” to respond to police if necessary. An Ottawa tow truck operator reported that he received death threats from protest supporters who mistakenly believed he provided assistance to the police.

The Sûreté du Québec (SQ) has been dealing with multiple threats arising from the protests. In early February, 2022, the SQ was called in to provide protection to the National Assembly in response to the convoy protests in Quebec City. Some individuals associated with the protests had threatened to take up arms and attack the National Assembly. This led to all parties at the National Assembly strongly denouncing all threats of violence. While that protest was not accompanied by violence, the threat has not ended; the protesters have stated that they plan to return on February 19, 2022. At the same time, the SQ is also dealing with threats of protests and blockades along Quebec’s border with New York State. This requires the SQ to deploy resources to establish checkpoints and ensure that crucial ports of entry remain open.

Other incidents which have occurred during the course of the blockades point to efforts by U.S.-based supporters of IMVE to join protests in Canada, or to conduct sympathetic disruptive blockades on the U.S. side of ports of entry. In some cases, individuals were openly carrying weapons. U.S.-based individuals, some openly espousing violent extremist rhetoric, have employed a variety of social media and other methods to express support for the ongoing blockades, to advocate for further disruptions, and to make threats of serious violence against Canadian law enforcement and the Government of Canada.

Several individuals with U.S. status have attempted to enter Canada with the stated purpose of joining the blockades. One high profile individual is known to have openly expressed opposition to COVID-19-related health measures, including vaccine mandates and has attempted to import

materials to Canada for the express purpose of supporting individuals participating in the blockades.

As of February 14, 2022, approximately 500 vehicles, most of them commercial trucks, were parked in Ottawa's downtown core. There have been reports of protesters engaging in hate crimes, breaking into businesses and residences, and threatening law enforcement and Ottawa residents.

Protesters have refused to comply with injunctions covering downtown Ottawa and the Ambassador Bridge and recent legislation enacted by the Ontario Government under the *Emergency Management and Civil Protection Act* (Ontario Regulation 71/22), which makes it illegal and punishable to block and impede the movement of goods, people and services along critical infrastructure. In Ottawa, the Ottawa Police Service has been unable to enforce the rule of law in the downtown core due to the overwhelming volume of protesters and the Police's ability to respond to other emergencies has been hampered by the flooding of Ottawa's 911 hotline, including by individuals from outside Canada. The occupation of the downtown core has also hindered the ability of emergency medical responders to attend medical emergencies in a timely way and has led to the cancellation of many medical appointments.

The inability of municipal and provincial authorities to enforce the law or control the protests may lead to a further reduction in public confidence in police and other Canadian institutions.

The situation in downtown Ottawa also impedes the proper functioning of the federal government and the ability of federal government officials and other workers to enter their workplaces in the downtown core safely.

Furthermore, the protests jeopardize Canada's ability to fulfil its obligations under the *Vienna Convention on Diplomatic Relations* as a host of the diplomatic community and pose risks to foreign embassies, their staff and their access to their diplomatic premises.

Conclusion

The ongoing Freedom Convoy 2022 has created a critical, urgent, temporary situation that is national in scope and cannot effectively be dealt with under any other law of Canada. The blockades of the ports of entry have disrupted the transportation of crucial medicine, goods, fuel and food to Canadians and are causing significant adverse effects on Canada's economy, relationship with trading partners and supply chains. These trade disruptions, the increase in criminal activity, the occupation of downtown Ottawa and the threats of violence and presence of firearms at protests – along with the other reasons detailed above – constitute a public order emergency, an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency. The types of measures set out in the February 14, 2022 *Proclamation Declaring a Public Order Emergency* are necessary in order to supplement

provincial and territorial authorities to address the blockades and occupation and to restore public order, the rule of law and confidence in Canada's institutions. The measures have been carefully tailored such that any potential effects on rights protected under the *Canadian Charter of Rights and Freedoms* are reasonable and proportionate in the circumstances.

This is **EXHIBIT “U”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in cursive script, reading "Janani S".

Janani Shanmuganathan

Canada Statutes - Prior Consolidation (R.S.C. 1970)

War Measures Act

R.S.C. 1970, c. W-2

R.S.C. 1970 c. W-2, Long Title.

An Act to confer certain powers upon the Governor in Council in the event of war, invasion, or insurrection

SHORT TITLE

Short title

1. This Act may be cited as the War Measures Act.

R.S., c. 288, s. 1.

EVIDENCE OF WAR

Evidence of war, etc.

2. The issue of a proclamation by Her Majesty, or under the authority of the Governor in Council shall be conclusive evidence that war, invasion, or insurrection, real or apprehended, exists and has existed for any period of time therein stated, and of its continuance, until by the issue of a further proclamation it is declared that the war, invasion or insurrection no longer exists.

R.S., c. 288, s. 2.

POWERS OF THE GOVERNOR IN COUNCIL

Special powers of Governor in Council

3. (1) The Governor in Council may do and authorize such acts and things, and make from time to time such orders and regulations, as he may by reason of the existence of real or apprehended war, invasion or insurrection deem necessary or advisable for the security, defence, peace, order and welfare of Canada; and for greater certainty, but not so as to restrict the generality of the foregoing terms, it is hereby declared that the powers of the Governor in Council extend to all matters coming within the classes of subjects hereinafter enumerated, namely,

- (a) censorship and the control and suppression of publications, writings, maps, plans, photographs, communications and means of communication;
- (b) arrest, detention, exclusion and deportation;
- (c) control of the harbours, ports and territorial waters of Canada and the movements of vessels;
- (d) transportation by land, air, or water and the control of the transport of persons and things;
- (e) trading, exportation, importation, production and manufacture;
- (f) appropriation, control, forfeiture and disposition of property and of the use thereof.

Force of law

(2) All orders and regulations made under this section have the force of law, and shall be enforced in such manner and by such courts, officers and authorities as the Governor in Council may prescribe, and may be varied, extended or revoked by any subsequent order or regulation; but if any order or regulation is varied, extended or revoked, neither the previous operation thereof nor anything duly done thereunder, is affected thereby, nor is any right, privilege, obligation or liability acquired, accrued, accruing or incurred thereunder affected by such variation, extension or revocation.

R.S., c. 288, s. 3.

Imposing penalties

4. The Governor in Council may prescribe the penalties that may be imposed for violations of orders and regulations made under this Act, and may also prescribe whether such penalties shall be imposed upon summary conviction or upon indictment, but no such penalty shall exceed a fine of five thousand dollars or imprisonment for any term not exceeding five years, or both.

R.S., c. 288, s. 4.

No release of arrested alien

5. No person who is held for deportation under this Act or under any regulation made thereunder, or is under arrest or detention as an alien enemy, or upon suspicion that he is an alien enemy, or to prevent his departure from Canada, shall be released upon bail or otherwise discharged or tried, without the consent of the Minister of Justice.

R.S., c. 288, s. 5.

Coming into force by proclamation

6. (1) Sections 3, 4 and 5 come into force only upon the issue of a proclamation of the Governor in Council declaring that war, invasion or insurrection, real or apprehended, exists.

Proclamation to be submitted to Parliament

(2) A proclamation declaring that war, invasion or insurrection, real or apprehended, exists shall be laid before Parliament forthwith after its issue, or, if Parliament is then not sitting, within the first fifteen days next thereafter that Parliament is sitting.

Opportunity for debate

(3) Where a proclamation has been laid before Parliament pursuant to subsection (2), a notice of motion in either House signed by ten members thereof and made in accordance with the rules of that House within ten days of the day the proclamation was laid before Parliament, praying that the proclamation be revoked, shall be debated in that House at the first convenient opportunity within the four sitting days next after the day the motion in that House was made.

Revocation of proclamation by resolution

(4) If both Houses of Parliament resolve that the proclamation be revoked, it ceases to have effect, and sections 3, 4 and 5 cease to be in force until those sections are again brought into force by a further proclamation but without prejudice to the previous operation of those sections or anything duly done or suffered thereunder or any offence committed or any penalty or forfeiture or punishment incurred.

Canadian Bill of Rights

(5) Any act or thing done or authorized or any order or regulation made under the authority of this Act, shall be deemed not to be an abrogation, abridgement or infringement of any right or freedom recognized by the Canadian Bill of Rights.

1960, c. 44, s. 6.

PROCEDURE

Fixing compensation

7. Whenever any property or the use thereof has been appropriated by Her Majesty under this Act, or any order in council, order or regulation made thereunder, and compensation is to be made therefor and has not been agreed upon, the claim shall be referred by the Minister of Justice to the Federal Court of Canada, or to a superior or county court of the province within which the claim arises, or to a judge of any such court.

R.S., c. 288, s. 7.

Forfeitures

8. Any ship or vessel used or moved, or any goods, wares or merchandise dealt with, contrary to any order or regulation made under this Act, may be seized and detained and shall be liable to forfeiture, at the instance of the Minister of Justice, upon proceedings in the Federal Court of Canada or in any superior court.

R.S., c. 288, s. 8.

Rules

9. Every court mentioned in sections 7 and 8 may make rules governing the procedure upon any reference made to, or proceedings taken before, such court or a judge thereof under those sections.

R.S., c. 288, s. 9.

This is **EXHIBIT “V”**

to the Affidavit of

MADELEINE ROSS

sworn before me by video conference

this 22th day of April, 2022

A handwritten signature in black ink, appearing to read "Janani S", written in a cursive style.

Janani Shanmuganathan

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No. 60-70

Copy No. 33

Cabinet Minutes

A meeting of the Cabinet was held in Room 340-S,
House of Commons, on Thursday, October 15th, 1970, at 9:00 a.m.

Present

The Prime Minister (Mr. Trudeau) in the Chair, The Secretary of State for External Affairs (Mr. Sharp), The Solicitor General (Mr. McIlraith), The Minister of Public Works (Mr. Laing), The President of the Queen's Privy Council for Canada (Mr. MacEachen), The President of the Treasury Board (Mr. Drury), The Minister of Finance (Mr. Benson), The Minister of Industry, Trade and Commerce (Mr. Pepin), The Minister of Regional Economic Expansion (Mr. Marchand), The Minister of Energy, Mines and Resources (Mr. Greene), The Minister without Portfolio (Mr. Côté), The Minister of Justice (Mr. Turner), The Minister of Indian Affairs and Northern Development (Mr. Chrétien),	The Minister of Labour (Mr. Mackasey), The Minister of National Defence (Mr. Macdonald), The Minister of National Health and Welfare (Mr. Munro), The Secretary of State (Mr. Pelletier), The Minister of Fisheries and Forestry (Mr. Davis), The Minister of Agriculture (Mr. Olson), The Minister of Veterans Affairs (Mr. Dubé), The Minister of Consumer and Corporate Affairs (Mr. Basford), The Minister of Communications (Mr. Kierans), The Minister of Supply and Services (Mr. Richardson), The Minister of Manpower and Immigration (Mr. Lang), The Minister of National Revenue (Mr. Gray),
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The Secretary to the Cabinet
(Mr. Robertson),
The Deputy Secretary to the Cabinet
(Mr. Crowe),
The Assistant Secretaries to the Cabinet
(Mr. Wall),
(Mr. Richard).

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SECRET

The F.L.Q. Situation

The Prime Minister informed his colleagues that the Cabinet Committee on Security had sat twice the day before to assess the developing situation in Quebec and that he would probably be making a public statement during the evening simultaneously with Premier Bourassa, depending on the turn of events during the course of the day.

The Prime Minister was then called to the telephone and he left the chair to the Secretary of State for External Affairs, asking him to continue briefing his colleagues on the events in question.

The Secretary of State for External Affairs said that the Prime Minister, following discussions with Premier Bourassa, had concluded that the Quebec government would like to have assistance from the federal government during the week in terms of special legislation to deal with the developing crisis.

1341b
EXEMPTION/EXCEPTION 1601b
ACCESS TO INFORMATION ACT/
LOI SUR L'ACCÈS À L'INFORMATION

The Prime Minister indicated that what was required was either amendments to the Criminal Code or special legislation providing the right to arrest persons for their belonging to, or sharing in the aims of, the F.L.Q.

The Secretary of State for External Affairs indicated that he personally recommended that special legislation or the use of the War Measures Act be brought forward to the committee. The committee, however, favoured special legislation. Mr. Sharp said that Quebec was also to ask sometime today for the assistance of the military for protection of public buildings so that the police could be used for other duties.

The committee had agreed that the government should comply with the request as soon as made.

As to special legislation, the Prime Minister would meet the leaders of the Opposition parties in the House to obtain their consent for legislation to be introduced in the House without the usual notice.

The Prime Minister indicated that he would make an announcement in the House and also speak to the nation. He stated, in particular, that a deadline was to be set for the delivery of the two persons kidnapped, after which no further consideration would be given to the F.L.Q. and the police forces would go all out seeking the guilty parties.

The legislation in question would be sought for a one year period or a shorter term.

SECRET

The Minister of Regional Economic Expansion said that he disagreed with the ultimatum to the F.L.Q. in view of his consultations with Messrs. Saulnier and Bourassa in Montreal yesterday. Mr. Marchand indicated that the situation was much more serious than he thought. that the (

14

speeches of () and various levels of the press. The) were coded messages to the F.L.Q. calls. (

19 (1)

)
The F.L.Q. were reported to have two tons of dynamite in their control in Montreal, the destination of which was controlled by radio equipment. Moreover, if the radio equipment in question had worked properly yesterday, there would have been one explosion in Montreal yesterday.

Asked where he had obtained such information, Mr. Marchand indicated that he had it from police sources. It appeared to him that the F.L.Q. was now seeking for support from outside their ranks, that is, public support for their cause. Mr. Marchand then referred to the statement made public the evening before by Mr. Levesque and a number of other prominent people and stated that the situation was very, very serious and that more quick action was needed, otherwise, not only evidence would be destroyed but F.L.Q. members would disappear. Time was against public authorities, and federal authorities should act as soon as possible.

Mr. Marchand further stated that approximately 200 people could be arrested during the first round of action by the police and possibly another thousand all told eventually; - special legislation should be introduced tomorrow, but meanwhile, the government should act under the Criminal Code. Any ultimatum to the F.L.Q. to release prisoners should take place only after police had made its sweep and only if necessary; the position of the police should not be weakened by prior notice to the F.L.Q. Mr. Marchand added that it must be realized that the F.L.Q. was a state within the state that must be disorganized now. The Prime Minister added that, as far as the police were concerned, acting tonight or tomorrow might make no difference in itself. However, the difference between acting tonight rather than tomorrow night, as far as the government was concerned, was that it would look as if it was breaking negotiations with the F.L.Q. negotiator Lemieux and thus, as if all along, the government was acting in bad faith.

As to the urgent legislation in question, it would also be slightly retroactive in its effect.

The Prime Minister said that he was afraid that civil libertarians would remember that eventually. As to moving the army into Quebec that night at 9 o'clock, the Prime Minister said it would prevent rioting in the Province and, more particularly in Montreal.

13 (1) b

EXEMPTION/EXCEPTION
ACCESS TO INFORMATION ACT/
LOI SUR L'ACCÈS À L'INFORMATION

) The Prime Minister
further stated that Mr. Bourassa could be convinced to have the raid tonight and a statement the next day.

SECRET

The Minister of Justice, at this point, declared that, in his view, the following points must be considered:

(1) the legislation that was now being contemplated was very restrictive and therefore should be justified before Parliament and the country. If a bill was to be introduced after illegal seizures had taken place the night before, the government would have put itself in a bad posture;

(2) if seizures were made that night, the persons could only be held 24 hours and should legislation not be through within that delay, arrests would lapse and writs of habeas corpus would then become possible and the government would be put in a position where it would lose face.

Therefore, Mr. Turner said that, in his opinion, an ultimatum was absolutely necessary to terminate negotiations and put the burden on the F.L.Q. to which the Minister of Regional Economic Expansion added that it should be remembered that whatever risks were run meant the risk of losing Quebec. Mr. Bourassa's government being in a very weak position right now.

The Prime Minister then said that to him that was the reason why an ultimatum should be given that night and the F.L.Q. members locked up that night also. The longer we gave opinion makers in Quebec, the more we stood to lose.

Another factor was that Mr. Bourassa did not want his backbenchers to sit around too long. They were falling apart rapidly.

The Minister of Agriculture then said that he favoured the use of the War Measures Act rather than any other wide measure and suggested that action take place at 9 o'clock that night and that legislation be introduced and substituted for the War Measures Act as soon as Royal Assent was obtained.

The Minister of Regional Economic Expansion added that even with the sweep advocated, the two victims of the kidnapping might not be saved but that, if the F.L.Q. was disorganized, the ultimatum contemplated might be useful.

The Minister of Agriculture was of the opinion that proclaiming the War Measures Act should coincide with the beginning of the sweep and the statement by the Prime Minister.

The President of the Treasury Board felt that the implicit impression he got from the police report was quite different from the facts told by the Minister of Regional Economic Expansion and he felt that what the government should really be after first was public opinion, then the kidnappers.

The Minister of Labour suggested that there should be left in the statement or ultimatum to be made, one loop-hole for the abductors if the victims were to be saved. "Let's try to have both worlds", he said, an ultimatum as far as Messrs. Cross and Laporte were concerned should be ambiguous enough to give a hope to the abductors to get away provided the victims were turned over safe and sound.

The Minister of Consumer and Corporate Affairs indicated that it appeared to him that the Cabinet Committee on Security did not seem to have the same impression that the Minister of Regional Economic Expansion had of the present state of things.

SECRET

The President of the Treasury Board added to the Minister of Consumer and Corporate Affairs' statement that insurrection had not appeared an immediate threat the night before.

The Minister of Regional Economic Expansion added to the information supplied that he had reasons to believe that there were a few infiltrators from the F.L.Q. in the Montreal Police but that it was not known whether the Quebec Provincial Police was infiltrated. He further explained that one of the plans of the F.L.Q. was to load trucks with dynamite, park them near large buildings in Montreal and detonate them from a distance through signals given by radio devices. This was to have taken place yesterday, but their radio controls had failed. This operation was to have coincided with mass demonstrations. What actually looked like an abduction only was really more than that; it was a big organized plan. The F.L.Q. was even able to reach directly to Quebec Minister Choquette who had attempted to negotiate directly with them. If we gave them the time they wanted, no one knew what would follow.

The Prime Minister added that although he generally discounted what Mr. Saulnier had to say (1411) he was in agreement with Mr. Marchand.

The President of the Privy Council and the Leader of the Government in the House then asked whether a special session should not be held that night and possibly in camera and went into the details of House rules that it would entail.

The Prime Minister queried the position of the Senate in the whole question and asked the Leader of the House whether convincing the Opposition Party Leaders was enough or whether the unanimous consent of the House was needed to permit sittings that night.

The Minister of National Defence answered the question, saying that 10 members could object and prevent the House from sitting until the next day.

The Minister of Agriculture added that the consent of the Leaders did not automatically mean that of the members.

The President of the Privy Council and Leader of the Government in the House stated that consent was needed for the following day at all events.

The Minister of Justice then declared that some of the ministers were aware of some of the facts presented by the Minister of Regional Economic Expansion, and (1411) Mr. Turner felt that in allowing the Quebec Government to put itself in a position to negotiate with the F.L.Q. the federal government had allowed itself to be immobilized by the F.L.Q. Admittedly, the purpose was to bargain for time for police purposes. Now it was essential to mobilize public opinion in both French and English Canada. There was a false logic in saying that if the government acted it would be the murderer of Cross and Laporte. The public should be prepared to understand the government's position.

Mr. Turner added that in interfering with civil liberties and admitting that insurrection was apprehended, the government might "overkill" and if it had not got Parliament and the people behind it, the government might well receive a black eye. He further stated that he was worried about premature police action.

SECRET

The Minister of National Revenue asked if a report could be made available on whether or not there was a public threat and, if there was one, then the proposal of the Minister of Manpower and Immigration should be followed (i.e. initial use of the War Measures Act followed as soon as possible by more restricted legislation) otherwise the proposal of Mr. Turner would be preferable.

The Prime Minister then said that he did not know whether the government could know that exactly.

The Minister of Consumer and Corporate Affairs then asked how the co-operation of other leaders could be obtained if evidence of a danger insurrection could not be given to them.

The Minister of Public Works stated that it was a shock to him to learn today what should have been known months before and as a result of it all, a new mandate might have to be asked from the nation.

The Minister of National Defence then said that it was important to prepare the public for the contemplated measures.

There followed a general discussion on the problems arising out of Mr. Bourassa's insistence on getting his medicare legislation through that day.

The Minister of Regional Economic Expansion stated that when the facts were known to the public its reaction would be; let's not forget that the F.L.Q. has been allowed to keep on building its organization after Mr. Saulnier warned the federal government.

The Minister of Energy, Mines and Resources could not see that the government was able to establish that there was a danger of insurrection, the more so in view of the fact that the security panel had not been able to arrive at such a conclusion.

The Prime Minister said that the government did not have a clear statement even from its own police force as to how many people were involved in the hard core of the F.L.Q. but that it could vary from 200 to 1,000. If that should be the case and the government did not react and there were an insurrection, where would the government stand?

The Secretary of State recalled the reaction of the R.C.M.P. to the information supplied last year by Mr. Saulnier: then the R.C.M.P. did not find sufficient evidence to act upon and he wondered if the facts now available were any different.

The Minister of National Health and Welfare thought that the critical issue was that, if there was a threat, the government should act that night as that was the best time for any insurrection to be caused and he indicated that he was in agreement with the Minister of Manpower and Immigration's suggestion.

As to the question of public opinion, it appeared to him that the government appeared to be losing in Quebec anyway and he wondered whether lost ground could be regained again one way or the other. As far as English Canada was concerned, he felt that it should be prepared. As to the 24 hours notice, he believed that it would encourage terrorists to create more chaos and perhaps more quickly.

SECRET

The Minister of Justice added that Mr. Bourassa should appear calm and reluctant to resort to extraordinary measures. He was the one who had to counteract the false logic that it was permissible and normal to exchange prisoners for victims of kidnappers. He was the one who had to give public explanations.

The Minister of Regional Economic Expansion reminded his colleagues that it was not to be forgotten that people in Quebec were becoming frightened.

The Minister of National Revenue said that he fundamentally agreed with the Minister of Justice on the question of the statement to be made but questioned whether it would not be wiser to make it simultaneously with the police action.

The Minister of Indian Affairs and Northern Development agreed to that adding that if the threat was serious, the government should not give previous warning of its action, but act and explain things later.

The Prime Minister said that it should not be forgotten that one only got to know after the fact whether what one was facing was insurrection or not. He added that he would be meeting the leaders of the Opposition at 10:30 and that he would inform them of what the situation appeared to be in Quebec without, however, telling them what was contemplated.

The Prime Minister said that if the line of action proposed by Mr. Marchand and Mr. Olson were agreed upon the government should proclaim the War Measures Act at 1:00 o'clock in the morning. Mr. MacEachen felt that government should go to Parliament first.

The Prime Minister then asked Mr. Turner to read the measures that he was proposing, entitled "An Act to Provide Emergency Powers for the Preservation of Public Order in Canada".

After the preamble was read, the Solicitor General objected to the legislation being directed against persons and organizations rather than against crimes. The Minister of Justice said that the Bill had been drafted in a wide enough manner to cover everyone linked with FLQ activities but that it definitely did not cover censorship.

The Secretary of State for External Affairs then informed his colleagues that a message had been received from Mr. Lalonde to the effect that Mayor Drapeau was to make a public statement in Montreal at noon on the seriousness of the situation that was developing.

The Minister of Consumer and Corporate Affairs said that Mr. Drapeau should definitely be persuaded not to make any public statements and not to interfere in the situation.

The Minister of Justice added that in view of the information received on the overall situation and if Messers. Bourassa, Choquette and Chouinard had had information that was inducing them to negotiate, he wondered why they were insisting on putting medicare legislation through the House that day.

SECRET

The Secretary of State for External Affairs then informed his colleagues that the press had gathered outside the room and that this Cabinet meeting should be treated by all Cabinet members as a routine matter, as far as the press was concerned. He then summarized the situation as follows:

1. the Quebec Legislature should not be sitting when the federal action was taken;
2. the federal government should act today;
3. legislation was preferable to the War Measures Act if possible.

The President of the Treasury Board said that the War Measures Act appeared to him as a face-saving device while the Minister of Agriculture said that if the police were to arrest people and have to keep them more than twenty-four hours there was no alternative and the War Measures Act was needed.

The Minister of Regional Economic Expansion informed his colleagues that he had had a message delivered to the Mayor of Montreal and that he was satisfied that Mr. Drapeau would not speak at noon as previously announced.

The President of the Privy Council suggested to his colleagues that they consider again the possibility of moving legislation in the House that night. There followed a general discussion on the avenues open to the government, the procedural problems if the government was to try to move legislation through the House that night and also the posture that the government would be put in if as Mr. Marchand indicated public demonstrations were to start that afternoon in Montreal and accelerate a deterioration of the situation.

The Minister of Labour thought that under the circumstances Mr. Bourassa should recess his House without delay.

The Secretary to the Cabinet informed Cabinet that if the request of the Quebec government for military assistance was to be met in time, General Dore would have to be warned at noon so that he could have all the requested troops available on location by 9:00 in the evening.

The Cabinet then agreed that if Quebec sent a written request to the federal government the request would be answered favourably and the army sent in.

The Minister of Public Works then stated that it was about time that the basic rotten problem which was "unemployment in Quebec" be tackled. The Minister of Regional Economic Expansion agreed, saying he had been advocating discussions on that problem for months.

The Prime Minister then summarized the situation as follows:

1. the army to be on various locations no later than 9:00 p.m. that night assuming that the Vice Chief of the General Staff, General Dore got instructions at noon after the government had received a written request from Mr. Bourassa pursuant to the National Defence Act;

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2. police action to start at 9:00 that night;
3. the government to be ready that night to proclaim the War Measures Act;
4. concurrence to be sought from the Opposition Leaders by the Prime Minister.

M.A. Crowe,
Deputy Secretary to the Cabinet.

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Cabinet Minutes

A meeting of the Cabinet was held in Room 340-S,
House of Commons, on Thursday, October 15th, 1970 at 2:30 p.m.

Present

The Prime Minister (Mr. Trudeau) in the Chair,	The Minister of Justice (Mr. Turner),
The Secretary of State for External Affairs (Mr. Sharp),	The Minister of Indian Affairs and Northern Development (Mr. Chrétien),
The Solicitor General (Mr. McIlraith),	The Minister of Labour (Mr. Mackasey),
The Minister of Public Works (Mr. Laing),	The Minister of National Defence (Mr. Macdonald),
The President of the Queen's Privy Council for Canada (Mr. MacEachen),	The Minister of National Health and Welfare (Mr. Munro),
The President of the Treasury Board (Mr. Drury),	The Secretary of State (Mr. Pelletier),
The Minister of Finance (Mr. Benson),	The Minister of Veterans Affairs (Mr. Dubé),
The Minister of Industry, Trade and Commerce (Mr. Pepin),	The Minister of Consumer and Corporate Affairs (Mr. Basford),
The Minister of Regional Economic Expansion (Mr. Marchand),	The Minister of Communications (Mr. Kierans),
The Minister of Energy, Mines and Resources (Mr. Greene),	The Minister of Supply and Services (Mr. Richardson),
The Minister without Portfolio (Mr. Côté),	The Minister of Manpower and Immigration (Mr. Lang),
	The Minister of National Revenue (Mr. Gray).

The Secretary to the Cabinet
(Mr. Robertson),
The Deputy Secretary to the Cabinet
(Mr. Crowe),
The Assistant Secretaries to the Cabinet
(Mr. Wall),
(Mr. Richard).

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The F.L.Q. Situation

(Previous reference October 15, morning session)

When the Cabinet resumed, the Prime Minister reported to his colleagues on his meetings with the other party Leaders in the House and indicated that Mr. Stanfield could not make up his mind, Mr. Douglas agreed to support special legislation and the War Measures Act, and so did Mr. Caouette. Eventually Mr. Stanfield said that he would agree with Mr. Douglas. As to Mr. Diefenbaker, whom he had also met, it appeared that he was mainly objecting to the army wearing helmets in the federal capital and the Prime Minister suggested that perhaps they wear something else at least in sight of Mr. Diefenbaker. Mr. Diefenbaker had also suggested that what was needed was special powers under the Criminal Code and he also thought that the War Measures Act might be indicated under the circumstances.

The Prime Minister further said that he had received a call from Mr. Roberts who was enquiring whether his statement had been helpful. The Prime Minister answered him affirmatively and Mr. Roberts said that he would support legislation preceded or followed by police action in Quebec.

The Minister of National Defence informed his colleagues that he would look into the matter of the helmets raised by Mr. Diefenbaker and that the movement of troops from Valcartier to St. Hubert had started at 12:00 noon and that troops were already reaching various locations in Montreal.

The Prime Minister informed his colleagues that Mr. Bourassa wanted the federal government to wait until he got his medicare legislation through the House and until the House had adjourned at no later than 1:00 a.m. that night before any police action was undertaken. While Mr. Bourassa favoured raids that night and legislation the next day he definitely did not want legislation and/or raids in the midst of his session.

The Secretary of State for External Affairs informed his colleagues that he had received a call from Mr. Choquette who said he was authorized by Mr. Bourassa to see if the federal government would agree to parole six of the twenty-three FLQ inmates and escort them out of the country. Mr. Sharp indicated that some of these people were murderers and others were arsonists.

The Prime Minister said that Mr. Bourassa had told him that he was in a position where he had to make some concessions to be consistent with his statement of last Sunday. The Prime Minister said that he told Mr. Bourassa of the existing contradiction between the recommendation of the Quebec government to parole people on one hand, and the fact that these people were considered as being dangerous. Why should these people be sent out of the country if they are innocent enough to be eligible for parole? The Prime Minister said that he would like to know what his colleagues felt the answer should be to Mr. Bourassa on his suggestion to make a public statement on the question of paroling some of the prisoners. He asked his colleagues whether the government was prepared to accelerate the parole processes of these people.

The Secretary of State for External Affairs said that besides paroling them, and escorting them out of the country, Mr. Choquette wanted them to be deprived of their Canadian citizenship.

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The Solicitor General said that eight of the inmates had indicated that they did not want to go out of the country to which the Minister of Regional Economic Expansion said that we should, if possible, help Mr. Bourassa in the parole question. The Prime Minister said that he had told Mr. Bourassa that the government would be as flexible as possible under the circumstances. The Minister of Justice felt that this would be tantamount to bargaining with criminals.

The Secretary of State for External Affairs added that he was also called by Minister Gérard Levesque about using the International Red Cross as the negotiating agent with the FLQ on the release of the kidnapped persons and of the prisoners by the government.

The Minister of Finance said that he favoured the idea of helping Mr. Bourassa in the parole question but that the government should not say publicly that it supported the suggestion of Mr. Bourassa.

The Minister of Labour said that we should first hear Premier Bourassa's recommendation for parole and then indicate our reaction.

The Prime Minister said that until the reaction of the Parole Board had been heard the government should not bind itself at all.

The Minister of Regional Economic Expansion added that, assuming that things turned bad in Montreal, the government should be in a position to say that every possible means had been tried to solve the problem; the Minister of Energy, Mines and Resources added that the government should be in a position to say that it had asked the Parole Board to accelerate the hearing if possible.

The Secretary of State for External Affairs then raised the question whether the matter of paroling prisoners or asking the Parole Board to accelerate its hearings of demands presently before it should not be done to help solve the crisis in Quebec and save the lives of Mr. Cross and Mr. Laporte.

The Prime Minister said that the answer to the first part of the question was definitely "no" and that the second part should be discussed. What Mr. Bourassa wanted was to do part of the deal demanded by the FLQ, i.e. release those who were eligible for parole and send them to Cuba; in the view of the Prime Minister this was not acceptable.

The Secretary of State then raised the question whether the provincial government had authority to parole some of the prisoners itself, to which the Solicitor General of Canada said "no".

The Prime Minister then asked whether Cabinet agreed that Mr. Bourassa be told that the federal government was going to ask the Parole Board to consider the question. This was agreed.

The Minister of Labour said that if by not helping the Quebec government we were to destroy it, there was no doubt that civil war would follow. He said that it was much more than just the question of Mr. Cross's and Mr. Laporte's lives.

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The Prime Minister summarized briefly the situation and indicated that:

- (1) Mr. Bourassa would probably not be through his House business before 1:00 a.m. that night;
- (2) the provincial and municipal police in Quebec would prefer to act that night rather than the next day.

The alternatives were therefore as follows:

- (1) at 9:55 p.m. the House of Commons be informed that the government would move special legislation (and the Quebec police could act at the same time). This would be possible assuming that Mr. Bourassa was through his meeting of the Quebec legislature by then; or
- (2) we have the raids that night and come to the House the next day with special legislation and justify the immediate action under the Criminal Code; or
- (3) proclaim the War Measures Act at 7:00 p.m. or 3:00 a.m. and go to the House and ask support on condition that:
 - (a) the regulations be limited in time and in scope of application;
 - (b) no further regulations to be made by the government other than those tabled, without Parliament's consent.

In other words, the Prime Minister said "do we have the raid tonight or tomorrow". He asked his colleagues to speak on that.

The Prime Minister said that nothing could be done until Mr. Bourassa was through with his medicare legislation in his House; in other words, the question was whether there was sufficient danger of insurrection in Quebec to have the raids now.

Most ministers favoured raids taking place that night. The Minister without Portfolio, Mr. Côté added that they should take place as soon as possible and the Minister of Veterans Affairs said that there was no alternative due to the fact that the army was already in. The Minister of Communications added that according to his most recent information that day the people in his riding were terrorized and the sooner the government acted the better it would be.

The President of the Privy Council and Leader of the Government in the House agreed to having the raids that night inasmuch as the government would be ready to move legislation.

The Prime Minister then said that the overall strategy should be considered and then the legislation needed to implement it.

There followed a short discussion on whether the raids were to be minor or major and what impact this really had on the legislation that was needed.

The Solicitor General indicated that he had a figure of 240 people reported to be the "hard core" of the P.L.Q. and he was really wondering where the figure of 1,000 advanced earlier in the day had come from. He indicated that using too large a figure could result in innocent people being involved.

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The Secretary of State for External Affairs said that there was a very strong argument in favour of moving that night while the Minister of Energy, Mines and Resources said that he was worried about the long-term result. He said that he respected the opinion of the Minister of Regional Economic Expansion and had no reason to disagree with him but he added that the Prime Minister would have to have a pretty well documented case to justify the action contemplated.

The Minister of Regional Economic Expansion said that what he had reported to Cabinet was the judgement of Mr. Drapeau, Mr. Saulnier, the Montreal police and also that of the Premier of Quebec.

The Prime Minister said that the government should have in hand, prior to doing anything, letters from Mr. Bourassa, Mr. Drapeau, Mr. Saulnier and the police stating exactly what the situation was and why action was requested by the federal government.

The Minister of Justice said that the Minister of Regional Economic Expansion's case was that because of the danger of insurrection there was urgency enough to move that night; Mr. Turner's view was that before the government did anything of the kind it should have Parliament in its confidence and it would be difficult to have Parliament sanction retroactively the action of the government. One way out of the dilemma was to proclaim the War Measures Act. If the government were to receive written requests from Mr. Bourassa, Mr. Drapeau, Mr. Saulnier, then the government could proclaim the War Measures Act, and the raids on the F.L.Q. in Quebec would be legal then the government could go to Parliament and ask Parliament to approve further legislation.

The Prime Minister asked the Minister of Justice why further legislation would be needed and Mr. Turner replied that, if the War Measures Act were used to prevent a feared insurrection, and then, if it were withdrawn and replaced by more moderate legislation, we would be regarded as having used the War Measures Act as a protective and temporary measure. If, on the other hand, what was apprehended in Quebec really was insurrection, then we could keep the War Measures Act in force; if it is not, we should not abuse that very restrictive Act.

The Minister of Manpower and Immigration added that he personally did not think that the measures to be used under the War Measures Act were similar to any other type of legislation that could be passed in parliament. However, he agreed that special legislation could be substituted for the War Measures Act when smaller tools were needed.

The Prime Minister said that all these discussions led him to believe that it was necessary to move that night and to proclaim the War Measures Act.

The timing would be to act after Mr. Bourassa had adjourned his House and to synchronize the proclamation of the War Measures Act with police action.

The President of the Privy Council and Leader of the Government in the House said that he wanted to be convinced why it was impractical to start by initiating legislation in the House that night.

The Minister of Consumer and Corporate Affairs added that if Mr. Bourassa were through his legislation by 9:55 p.m. that night then the government should go to Parliament right afterwards and have the raid by the police as soon afterwards as possible.

SECRET

The Prime Minister said that he had tried to convince Mr. Bourassa to keep the forum that he had, the Quebec Assembly, in session, and use it in explaining and controlling the situation, but Mr. Bourassa had felt that he could not keep the House or his Cabinet together if action were not taken quickly. Mr. Bourassa had further said that he could very well have resignations on his hands shortly.

The Minister of National Defence suggested that, in view of the fact that the House had spent two hours that morning discussing the motion to reinstitute the Joint Committee of House and of the Senate on the Constitution, the House could very well be kept going that night for an extra two hours. The President of the Privy Council and Leader of the Government in the House said that it was necessary that the leaders of the Opposition Parties in the House be brought together to face the situation; the Minister of Agriculture added that the government could not very well go to the Opposition saying that it was waiting for Mr. Bourassa's House to close before anything could be done.

The Prime Minister said that he had secured the agreement of the Leaders of the Opposition in the House that if the House would not go along unanimously and co-operate with the government in rapid passing of special legislation then they would support the government's proclaiming the War Measures Act. However, there was no way that legislation could be put through all stages - including the Senate that night to authorize action before morning.

The Minister of National Revenue referred to the relations between the War Measures Act and Bill of Rights and said that he was of the opinion that Parliament had contemplated that the use of the War Measures Act could be made without government going back to Parliament. Mr. MacEachen said that the government should definitely at least ask Parliament to deal with the question before using the War Measures Act.

The Prime Minister suggested that he meet the Leaders of Opposition Parties in the House again and tell them about the situation and ask them to convene a quorum of their Parties for the House which could convene at 10 o'clock that night.

The Minister of National Revenue added that there was a vote to be taken at 9:30 that night and that there would be very little time afterwards to deal with the problem.

The Minister of Justice said that he was of the opinion that Mr. Gray's argument was a very good one as far as proclaiming the War Measures Act while Parliament was sitting was concerned and he read a section of the Act to support his views.

The Minister of Regional Economic Expansion said that he agreed with line proposed by Mr. Gray.

The Prime Minister said that he had not committed himself one way or the other with Mr. Bourassa, and that his opinion was that Mr. Bourassa so far had been a pillar of fortitude but that he desperately needed to be helped.

The Minister of National Defence suggested that the Opposition Leaders should be warned in advance of the action contemplated by the government and of the reasons for such action, namely that the government did not want to tip off anyone on its contemplated action.

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The Prime Minister said that the following reasons could be given to them:

- (1) the hour of the raid has not been decided;
- (2) if the War Measures Act was to be proclaimed before 10 o'clock, he would table it in the House and discussions could be held then;
- (3) if that could not be done, then the regulations proclaimed under the War Measures Act would be tabled the next day.

The Minister of Labour suggested that Mr. Stanfield be told that what the government was trying to prevent was civil war.

The Prime Minister added that he wanted to be able to say for future record that the Opposition Leaders had been informed of the alternatives available to the government. He added that the contingency plan was that the proclamation would be tabled in the House that night if Mr. Bourassa was prepared for it.

All ministers agreed that the government should proceed with the War Measures Act and regulations limiting its application in time and in scope.

The Prime Minister then asked the Solicitor General whether it would be possible for the list of people suspected to be members of the FLQ to be checked with someone who knows French Canada and he asked the Minister of Regional Economic Expansion and the Secretary of State if they would do that with Mr. McIlraith. Both agreed to do so.

The Prime Minister said that Mr. Turner and Mr. Robertson would arrange for Mr. Lalonde to pick up the letters sent to the federal government by Mr. Bourassa, Mr. Drapeau and Mr. Saulnier.

The Minister of Justice distributed a draft of the proposed regulations to be adopted under the War Measures Act and the regulations were considered clause by clause.

Several amendments were proposed by ministers, the Prime Minister suggesting that the preamble be amended to mention the kidnapping of two persons and the threat on their lives and it was agreed that the Department of Justice and the Minister of Justice would consider all these amendments and would incorporate them in the regulations where appropriate.

On the question of the application of the regulations, the Minister of Justice informed his colleagues that the Attorney General of each province would have that responsibility.

The regulations were approved subject to the Minister of Justice considering the amendments proposed and subject to further examination by the Prime Minister and the Secretary to the Cabinet.

SECRET

The Cabinet agreed that:

- (1) in view of the situation developing in Quebec, military assistance be supplied to the government of the Province of Quebec as soon as possible after a written request had been received from civil authorities of that province pursuant to the National Defence Act;
- (2) in view of the information received on the Quebec situation and of the requests for emergency powers made by the Quebec government, the civic authorities of the City of Montreal and the director of the police department of that city, such information and request leaving the government no alternative, that the War Measures Act be proclaimed and regulations under it approved to provide the authorities with emergency powers to deal with the situation developing in Quebec;
- (3) the regulations under the War Measures Act be limited in duration and scope of their application;
- (4) the orders in council authorizing the issue of a proclamation under the War Measures Act, the proclamation, and the order in council authorizing certain regulations to provide emergency powers, be tabled in the House during the evening should the proclamation take place before the House adjourned or otherwise on the following morning;
- (5) no further regulations under the War Measures Act than those to be tabled, be approved by order in council without informing Parliament and seeking approval of Parliament;
- (6) the draft regulations submitted to Cabinet by the Minister of Justice be approved subject to their final review by the Prime Minister and the Clerk of the Privy Council prior to the War Measures Act being proclaimed and such regulations being implemented;
- (7) special legislation of more restricted scope to deal with the Quebec crisis and to replace the War Measures Act be submitted to Parliament as soon as possible;
- (8) the leaders of the Opposition parties in the House be informed by the Prime Minister during the day, of the situation in Quebec, of the alternatives open to the government to prevent insurrection, and that the Prime Minister attempt to reach an agreement with them on the measures agreed upon by Cabinet and on their dealing with them and the Quebec situation, when these measures were tabled in the House;
- (9) the Quebec government give the abductors an ultimatum for the release of Mr. Cross and Mr. Laporte;
- (10) police raids in Quebec to arrest FLQ members and seize insurrection material start at the expiry of such ultimatum;
- (11) the list of FLQ suspects to be arrested after the proclamation of the War Measures Act be seen and checked in advance by the Minister of Regional Economic Expansion and the Secretary of State;

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(12) communications media be invited privately by the Secretary of State to refrain from giving publicity to those advocating violence in Quebec;

(13) the Parole Board be invited to accelerate its hearings of the requests for parole of those FLQ members presently serving sentences, and eligible for parole, in answer to the request of the Premier of Quebec;

(14) all Cabinet members refrain from commenting on the questions discussed and decisions taken in relation with the Quebec crisis.

M.A. Crowe,
Deputy Secretary to the Cabinet.

FEDERAL COURT

B E T W E E N:

**CANADIAN CONSTITUTION
FOUNDATION**

Applicant

- and -

ATTORNEY GENERAL OF CANADA

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